

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: NATIONAL)
5 PRESCRIPTION) MDL No. 2804
6 OPIATE LITIGATION)
7 _____) Case No.
8) 1:17-MD-2804
9)
10 THIS DOCUMENT RELATES) Hon. Dan A.
11 TO ALL CASES) Polster

12 WEDNESDAY, AUGUST 1, 2018

13 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
14 CONFIDENTIALITY REVIEW
15 - - -

16 Videotaped deposition of Nathan J.
17 Hartle, held at the offices of Covington &
18 Burlington, LLP, One City Center, 850 Tenth
19 Street Northwest, Washington, DC, commencing
20 at 9:03 a.m., on the above date, before
21 Carrie A. Campbell, Registered Diplomate
22 Reporter, Certified Realtime Reporter,
23 Illinois, California & Texas Certified
24 Shorthand Reporter, Missouri & Kansas
25 Certified Court Reporter.

26 - - -
27 GOLKOW LITIGATION SERVICES
28 877.370.3377 ph | 917.591.5672 fax
29 deps@golkow.com

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| <p>1 APPEARANCES :</p> <p>2</p> <p>3 MCHUGH FULLER LAW GROUP</p> <p>4 BY: MICHAEL J. FULLER, JR., ESQUIRE</p> <p>mike@mchughfuller.com</p> <p>97 Elias Whiddon Road</p> <p>Hattiesburg, Mississippi 39402</p> <p>(601) 261-2220</p> <p>6</p> <p>7 GREENE KETCHUM BAILEY WALKER FARRELL & TWEEL</p> <p>8 BY: PAUL T. FARRELL, JR., ESQUIRE</p> <p>paul@greeneketchum.com</p> <p>419 Eleventh Street</p> <p>Huntington, West Virginia 25701</p> <p>(314) 525-9115</p> <p>10</p> <p>11 LEVIN, PAPANTONIO, THOMAS, MITCHELL, RAFFERTY & PROCTOR, P.A.</p> <p>12 BY: MICHAEL PAPANTONIO, ESQUIRE</p> <p>mpapantonio@levinlaw.com</p> <p>TROY RAFFERTY, ESQUIRE</p> <p>trafferty@levinlaw.com</p> <p>BRANDON BOGLE</p> <p>bbogle@levinlaw.com</p> <p>316 South Baylen Street, Suite 600</p> <p>Pensacola, Florida 32502</p> <p>(850) 435-7000</p> <p>Counsel for Plaintiffs</p> <p>16</p> <p>17 COVINGTON & BURLING LLP</p> <p>18 BY: EMILY JOHNSON HENN, ESQUIRE</p> <p>ehenn@cov.com</p> <p>MEGHAN MONAGHAN, ESQUIRE</p> <p>mmonaghan@cov.com</p> <p>850 Tenth Street, NW</p> <p>Washington, DC 20001-4956</p> <p>(202) 662-6000</p> <p>Counsel for McKesson Corporation</p> <p>23</p> <p>24</p> <p>25</p> | <p>1 ZUCKERMAN SPAEDER LLP</p> <p>2 BY: CONOR B. O'CROININ, ESQUIRE</p> <p>cocroinin@zuckerman.com</p> <p>100 East Pratt Street, Suite 2440</p> <p>Baltimore, Maryland 21202-1031</p> <p>(202) 778-1800</p> <p>Counsel for CVS Indiana, LLC, and CVS RX Services, Inc.</p> <p>6</p> <p>7 ARNOLD & PORTER</p> <p>8 BY: DAVID D. FAUVRE, ESQUIRE</p> <p>David.Fauvre@arnoldporter.com</p> <p>601 Massachusetts Avenue, NW</p> <p>Washington, DC 20001-3743</p> <p>(202) 942-5000</p> <p>Counsel for Endo Pharmaceuticals Inc., and Endo Health Solutions Inc.</p> <p>11</p> <p>12 ROPE & GRAY</p> <p>13 BY: WILLIAM T. DAVISON, ESQUIRE</p> <p>william.davison@ropesgray.com</p> <p>800 Boylston Street</p> <p>Boston, Massachusetts 02199-3600</p> <p>(617) 951-7000</p> <p>Counsel for Mallinckrodt</p> <p>16</p> <p>17 MARCUS & SHAPIRA LLP</p> <p>18 BY: SCOTT D. LIVINGSTON, ESQUIRE</p> <p>livingston@marcus-shapira.com</p> <p>301 Grant Street, 35th Floor</p> <p>Pittsburgh, Pennsylvania 15219-6401</p> <p>(412) 378-4690</p> <p>Counsel for HBC</p> <p>20</p> <p>21 MORGAN, LEWIS & BOCKIUS LLP</p> <p>22 BY: MONICA C. PEDROZA, ESQUIRE</p> <p>monica.pedroza@morganlewis.com</p> <p>(VIA TELECONFERENCE)</p> <p>77 West Wacker Drive, Fifth Floor</p> <p>Chicago, Illinois 60601</p> <p>(312) 324-1000</p> <p>Counsel for Teva Pharmaceuticals USA, Inc., Cephalon, Inc., Watson Laboratories, Actavis LLC, Actavis Pharma, Inc., f/k/a Watson Pharma</p> <p>23</p> <p>24</p> <p>25</p> |
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| <p>1 WILLIAMS & CONNOLLY LLP</p> <p>2 BY: MIRANDA PETERSEN, ESQUIRE</p> <p>mpetersen@wc.com</p> <p>725 Twelfth Street, N.W.</p> <p>Washington, DC 20005</p> <p>(202) 434-5331</p> <p>Counsel for Cardinal Health, Inc.</p> <p>5</p> <p>6 REEDSMITH LLP</p> <p>7 BY: THOMAS H. SUDDATH, JR., ESQUIRE</p> <p>tsuddath@reedsmith.com</p> <p>Three Logan Square</p> <p>1717 Arch Street, Suite 3100</p> <p>Philadelphia, Pennsylvania 19103</p> <p>(215) 851-8100</p> <p>Counsel for AmerisourceBergen</p> <p>10</p> <p>11 JONES DAY</p> <p>12 BY: CHRISTOPHER J. LOVRIEN, ESQUIRE</p> <p>cjllovrien@jonesday.com</p> <p>555 South Flower Street, 50th Floor</p> <p>Los Angeles, California 90071-2452</p> <p>(213) 489-3939</p> <p>Counsel for Walmart</p> <p>14</p> <p>15 PELINI, CAMPBELL & WILLIAMS LLC</p> <p>16 BY: CRAIG G. PELINI, ESQUIRE</p> <p>cgp@pelini-law.com</p> <p>8040 Cleveland Avenue NW, Suite 400</p> <p>North Canton, Ohio 44720</p> <p>(330) 305-6400</p> <p>Counsel for Prescription Supply, Inc.</p> <p>18</p> <p>19 JACKSONKELLY PLLC</p> <p>20 BY: WILLIAM J. AUBEL, ESQUIRE</p> <p>william.j.aubel@jacksonkelly.com</p> <p>(VIA TELECONFERENCE)</p> <p>500 Lee Street East, Suite 1600</p> <p>Charleston, West Virginia 25301</p> <p>(304) 340-1146</p> <p>Counsel for Miami-Lukens</p> <p>24</p> <p>25</p> | <p>1 MORGAN, LEWIS & BOCKIUS LLP</p> <p>2 BY: MATTHEW R. LADD, ESQUIRE</p> <p>matthew.ladd@morganlewis.com</p> <p>(VIA TELECONFERENCE)</p> <p>101 Park Avenue</p> <p>New York, NY 10178-0060</p> <p>(212) 309-6000</p> <p>Counsel for Rite Aid</p> <p>5</p> <p>6 LOCKE LORD LLP</p> <p>7 BY: BRANDAN MONTMINY, ESQUIRE</p> <p>brandan.montminy@lockelord.com</p> <p>(VIA TELECONFERENCE)</p> <p>2200 Ross Avenue, Suite 2800</p> <p>Dallas, Texas 75201</p> <p>(214) 740-8445</p> <p>Counsel for Henry Schein, Inc., and Henry Schein Medical Systems, Inc.</p> <p>10</p> <p>11 KIRKLAND & ELLIS</p> <p>12 BY: KAITLYN L. COVERSTONE, ESQUIRE</p> <p>kaitlyn.coverstone@kirkland.com</p> <p>(VIA TELECONFERENCE)</p> <p>300 North LaSalle</p> <p>Chicago, IL 60654</p> <p>(312) 862-3671</p> <p>Counsel for Allergan Finance, LLC</p> <p>14</p> <p>15 VIDEOGRAPHER:</p> <p>16 DANIEL HOLMSTOCK,</p> <p>Golkow Litigation Services</p> <p>18</p> <p>19 TRIAL TECHNICIAN:</p> <p>20 COREY SMITH,</p> <p>Golkow Litigation Services</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |

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| 1 | McKesson National Center for Health Hartle 89 Statistics mortality data | 332 | 1 | VIDEOPHAGER: We are now on the record. |
| 2 | McKesson Prescription Drug Abuse, The Hartle 100 National Perspective, MCKMDL00330174 - MCKMDL00330198 | 389 | 2 | My name is Daniel Holmstock. I am the videographer for Golkow Litigation Services. |
| 3 | McKesson Charleston Gazette-Mail Hartle 101 "Prescription drug abuse plagues small W. Va. Town" | 478 | 3 | Today's date is August 1, 2018. |
| 4 | McKesson CDC Morbidity and Mortality Hartle 102 Weekly Report, CDC Grand Rounds: Prescription Drug Overdoses - a US Epidemic | 404 | 4 | The time is 9:03 a.m. |
| 5 | McKesson State of Prescription Drug Hartle 134 Abuse, Gary Boggs, Olive Branch, MCKMDL00336833 - MCKMDL00336886 | 482 | 5 | This deposition is being held at the law offices of Covington & Burling, LLP, at 850 Tenth Street, Northwest, in Washington, DC, in the matter of In Re: National Prescription Opiate Litigation, pending before the United States District Court for the Northern District of Ohio, Eastern Division, Case Number 1:17-MD-2804. |
| 6 | McKesson Photographs, P1.1280 and Hartle 135 P1.1280.2 | 476 | 6 | The deponent today is Mr. Nate Hartle. |
| 7 | McKesson Printout of Oxy Express and Hartle 140 Judy's Pharmacy | 445 | 7 | Will counsel please introduce themselves and whom they represent. |
| 8 | McKesson E-mail(s), Hartle 141 MCKMDL00413042 - MCKMDL00413050 | 428 | 8 | MR. RAFFERTY: Troy Rafferty on behalf of the plaintiffs. |
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| 2 | McKesson Handwritten demonstrative by Hartle 163 Mr. Papantonio "Kermit" | 402 | 2 | MR. FARRELL: Paul Farrell on behalf of plaintiffs. |
| 3 | McKesson Handwritten demonstrative by Hartle 165 Mr. Papantonio "Kermit - 406" (Exhibits attached to the deposition.) | 445 | 3 | MR. SUDDATH: Tom Suddath on behalf of AmerisourceBergen. |
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| 8 | | 9 | 9 | MS. PETERSEN: Miranda Petersen, Williams & Connolly, on behalf of Cardinal Health. |
| 9 | | 10 | 10 | MR. LIVINGSTON: Scott Livingston on behalf of HBC. |
| 10 | | 11 | 11 | MR. O'CROININ: Conor O'Croinin on behalf of CVS. |
| 11 | | 12 | 12 | MS. MONAGHAN: Meghan Monaghan from Covington & Burling on behalf of |
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| <p style="text-align: right;">Page 14</p> <p>1 McKesson and the witness.</p> <p>2 MS. HENN: Emily Henn on behalf</p> <p>3 of McKesson and the witness.</p> <p>4 VIDEOGRAPHER: Okay. Will the</p> <p>5 court reporter please administer the</p> <p>6 oath?</p> <p>7 Telephone, sorry, yes. Yeah,</p> <p>8 telephone?</p> <p>9 MS. PEDROZA: Monica Pedroza on</p> <p>10 behalf of Teva Pharmaceuticals USA,</p> <p>11 Inc., Cephalon Inc., Watson</p> <p>12 Laboratories, Inc., Actavis, LLC and</p> <p>13 Actavis Pharma, Inc.</p> <p>14 MR. LADD: Matthew Ladd on</p> <p>15 behalf of Rite Aid.</p> <p>16 MR. AUBEL: Bill Aubel, Jackson</p> <p>17 Kelly, on behalf of Miami-Lukens, Inc.</p> <p>18 VIDEOGRAPHER: Okay.</p> <p>19 MR. RAFFERTY: Anybody else?</p> <p>20 VIDEOGRAPHER: The court</p> <p>21 reporter is Carrie Campbell, who will</p> <p>22 now administer the oath.</p> <p>23</p> <p>24 NATHAN J. HARTLE,</p> <p>25 of lawful age, having been first duly sworn</p> | <p style="text-align: right;">Page 16</p> <p>1 Q. Is that a new position?</p> <p>2 A. It is a new position, new</p> <p>3 title, as of July 1st. Prior to that, I</p> <p>4 was -- senior director of regulatory affairs</p> <p>5 was my title.</p> <p>6 Q. Senior director of regulatory</p> <p>7 affairs for the retail national accounts or</p> <p>8 in some other capacity?</p> <p>9 A. Correct. For the retail</p> <p>10 national accounts. The new title, I will be</p> <p>11 taking on the statistics and analytics team</p> <p>12 here shortly.</p> <p>13 Q. Okay. So is that a</p> <p>14 different -- the title is different, but is</p> <p>15 the position different from what you had</p> <p>16 before?</p> <p>17 A. I maintain the certain</p> <p>18 regulatory -- or the chain responsibilities,</p> <p>19 and in addition to that will be statistics</p> <p>20 and analytics.</p> <p>21 (McKesson-Hartle Exhibit 41</p> <p>22 marked for identification.)</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. Okay. I'm going to show you --</p> <p>25 MR. RAFFERTY: If we could pull</p> |
| <p style="text-align: right;">Page 15</p> <p>1 to tell the truth, the whole truth and</p> <p>2 nothing but the truth, deposes and says on</p> <p>3 behalf of the Plaintiffs, as follows:</p> <p>4</p> <p>5 DIRECT EXAMINATION</p> <p>6 QUESTIONS BY MR. RAFFERTY:</p> <p>7 Q. Could you state your name,</p> <p>8 please?</p> <p>9 A. Nathan John Hartle. I go by</p> <p>10 Nate.</p> <p>11 Q. Mr. Hartle, my name is Troy</p> <p>12 Rafferty. I'm going to be asking you some</p> <p>13 questions today.</p> <p>14 Okay?</p> <p>15 A. Okay.</p> <p>16 Q. Who is your current employer?</p> <p>17 A. McKesson Corporation.</p> <p>18 Q. Okay. What is your current</p> <p>19 position?</p> <p>20 A. I'm currently the vice</p> <p>21 president of compliance -- regulatory affairs</p> <p>22 and compliance.</p> <p>23 Q. Vice president of regulatory</p> <p>24 affairs and compliance.</p> <p>25 A. Correct.</p> | <p style="text-align: right;">Page 17</p> <p>1 up, Corey, 1.795, which we will mark</p> <p>2 as Exhibit 41 to the deposition.</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. Okay. What I'm showing you --</p> <p>5 I'm going to show you some documents</p> <p>6 throughout the deposition, Mr. Hartle. I'm</p> <p>7 going to direct you to certain areas. If</p> <p>8 there's a different part that you want to</p> <p>9 look at or if you want to take a minute to</p> <p>10 review, I'm fine with that. Just let me</p> <p>11 know.</p> <p>12 Okay?</p> <p>13 A. Okay.</p> <p>14 Q. But to try and keep things</p> <p>15 moving, we're under a time -- you know, I've</p> <p>16 only got a certain amount of time, so I'm</p> <p>17 going to try and direct you to those areas.</p> <p>18 Okay?</p> <p>19 A. Understood.</p> <p>20 Q. All right. What we have here,</p> <p>21 if you look, is something entitled</p> <p>22 "McKesson's Controlled Substance Monitoring</p> <p>23 Program, Regulatory Affairs Training."</p> <p>24 Do you see that?</p> <p>25 A. I do.</p> |

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| <p>1 Q. Okay. And I will represent to 2 you that there's not a date on this, but we 3 looked at the production, and there's 4 something referred to as metadata that 5 established that this was produced 6 December 31, 2015.</p> <p>7 Okay?</p> <p>8 You were there in your role as 9 senior director of retail and national 10 accounts, correct?</p> <p>11 A. Correct.</p> <p>12 Q. You started there when? In 13 McKesson.</p> <p>14 A. In May of 2014.</p> <p>15 Q. May of 2014. Okay.</p> <p>16 And you maintained that same 17 position in charge of retail national 18 accounts until July of this year when your 19 position changed, correct, or your title 20 changed?</p> <p>21 A. Title changed, yeah. And I've 22 added different responsibilities, but I've 23 always had the chain responsibility.</p> <p>24 Q. So you've added additional 25 responsibilities, yes?</p> | <p>1 Okay. So -- and we'll look at 2 that in just a minute. But you have 3 underneath you some direct reports, including 4 Micheal Bishop.</p> <p>5 Do you know who Micheal Bishop 6 is?</p> <p>7 A. I do.</p> <p>8 Q. Okay. Michael Oriente. Do you 9 know who that is?</p> <p>10 A. I do.</p> <p>11 Q. Okay. Jay Espaillat?</p> <p>12 A. Espaillat.</p> <p>13 Q. Espaillat.</p> <p>14 And then Adam Palmer, who 15 reports to Michael Oriente.</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. And then Jennifer Sheffield, 19 the regulatory affairs admin?</p> <p>20 A. Yeah.</p> <p>21 Q. Okay. And that was your team, 22 right?</p> <p>23 A. Was, yeah. It's changed over 24 time.</p> <p>25 Q. Okay. It's changed. In</p> |
| Page 19 | Page 21 |
| <p>1 A. Correct.</p> <p>2 Q. Okay. If you'll turn to 3 page .9, I want to just make sure I 4 understand who -- where you sit in the 5 hierarchy of McKesson. Okay?</p> <p>6 And in particular, US pharma is 7 the division of McKesson that handles and 8 sells the narcotics, right? That's the 9 division?</p> <p>10 A. Correct. Correct.</p> <p>11 Q. Okay. So if you look up here, 12 you've got regulatory affairs, retail 13 national accounts, and it says, "Nate Hartle, 14 senior director," right?</p> <p>15 A. It does.</p> <p>16 Q. Nobody above you?</p> <p>17 A. Not on this slide.</p> <p>18 Q. Not on that. Not in terms of 19 retail national accounts?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. Because there's one 22 other person, a vice president, I think, at 23 the time, Krista Peck?</p> <p>24 A. Senior vice president.</p> <p>25 Q. Senior vice president.</p> | <p>1 fact -- yeah. Okay.</p> <p>2 So if we go now to point --</p> <p>3 well, how long was that your team? How long 4 did you have -- in particular looking at the 5 director of regulatory affairs, Michael 6 Oriente, and Micheal Bishop, the regulatory 7 affairs manager, how long were they with you?</p> <p>8 A. So it's evolved. When I --</p> <p>9 Michael joined the team -- Michael, Adam 10 Palmer -- well, two Michaels and Adam Palmer 11 joined the team in 2014. Jay was added -- I 12 can't remember the exact time frame, but 13 right around in 2015. He supports some work 14 I do for the entire regulatory affairs team 15 focused on threshold methodology and some 16 advancements we made.</p> <p>17 Q. Okay. All right. My specific 18 question is how long they've been with you.</p> <p>19 A. How long --</p> <p>20 Q. How long were they on your 21 team?</p> <p>22 A. Michael's been on the team 23 since 2014. Adam's been 2014. Jay's been 24 2015.</p> <p>25 Q. Okay.</p> |

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| <p>1 A. Micheal Bishop is no longer 2 here. We've had some adjustments. 3 Q. But he was with you until 2018, 4 correct? 5 A. Yes. 6 Q. Okay. Let's take a look now at 7 the US pharma regulatory affairs. And the 8 reason I want to do this is I want to make 9 sure I know when we're talking today and 10 you're answering questions, in what capacity 11 you're answering them in terms of the 12 hierarchy of regulatory affairs at McKesson. 13 Okay? 14 A. Understood. 15 Q. All right. 16 MR. RAFFERTY: So if we could, 17 turn to page .4, Corey. 18 QUESTIONS BY MR. RAFFERTY: 19 Q. All right. Now this is, 20 according to the CSMP training module that 21 we're looking at, this is supposed to be the 22 US pharma regulatory affairs CSMP team. 23 Do you see that? 24 A. I do. 25 Q. Okay. CSMP is the controlled</p> | <p>1 Q. Of US pharma, I'm sorry. 2 That's what -- okay. 3 And who was that at the time; 4 do you remember? 5 A. It was Mark Walchirk. 6 Q. Okay. So you got Krista Peck, 7 who is one step away from the president of US 8 pharma, right? 9 A. Correct. 10 Q. And then right below her you've 11 got Nate Hartle sitting there as senior 12 director, right? 13 A. Correct. 14 Q. You got Lisa Young as the 15 senior director for the west region, right? 16 A. Correct. 17 Q. And then Gary Boggs is the 18 senior director for the east region, right? 19 A. Correct. 20 Q. Okay. So there were two 21 regions, east and west, and then you, who 22 covered, I assume, regional national -- I 23 always say regional national account -- 24 retail national accounts for the entire 25 country, correct?</p> |
| Page 23 | Page 25 |
| <p>1 substance monitoring program, right? 2 A. Correct. 3 Q. And that is really the 4 foundation of the regulatory affairs 5 department in terms of your job 6 responsibilities and duties, right? 7 MS. HENN: Objection to form. 8 THE WITNESS: It is. 9 QUESTIONS BY MR. RAFFERTY: 10 Q. Okay. And as part of that 11 duty, you have an obligation, a 12 responsibility, a duty, to understand and 13 implement the controlled substance monitoring 14 program of McKesson, true? 15 A. That's true. 16 Q. Okay. And if we look at the 17 hierarchy here, there's Gary -- okay, Krista 18 Peck, who is the senior vice president. I 19 assume above her is the president of 20 McKesson? 21 A. Correct. 22 Q. Okay. That's Mr. Hammergren 23 right now? 24 A. No. Above Krista or that 25 position is the president of US pharma.</p> | <p>1 A. Yes, that's correct. 2 Q. Okay. Now, when we talk about 3 the retail national accounts, we're talking 4 about -- that you were in charge of, we're 5 talking about the Rite Aids, CVS, Walgreens, 6 Walmarts and a bunch of others that I'm not 7 listing, right? 8 A. A variety of chains. 9 Q. Chains. Okay. 10 A. Chains is the best way to talk 11 about it. 12 Q. Okay. But literally thousands 13 of stores in those chains, right? 14 A. In some of them. 15 Q. In some of them. 16 And you're over all of that? 17 A. Correct, those chains. 18 Q. From a regulatory controlled 19 substance monitoring program standpoint, 20 true? 21 A. True. 22 MS. HENN: Objection to form. 23 QUESTIONS BY MR. RAFFERTY: 24 Q. So tell me, how much of the 25 business in terms of US pharma compared to</p> |

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| <p style="text-align: right;">Page 26</p> <p>1 the -- because there's another category of 2 stores called the -- I believe you refer to 3 them as ISMCs; is that right? 4 A. Correct. 5 Q. Okay. And that is the 6 independent small medium chains? 7 A. Correct. 8 Q. Is that what that stands for? 9 A. That's what it stands for, yes. 10 Q. Okay. All right. And that's 11 what Gary Boggs and Lisa Young would have 12 been over in their regions? 13 A. Yes, that's part of their 14 responsibility. 15 Q. Okay. All right. The retail 16 national accounts, that's a pretty big part 17 of US pharma's business, isn't it, 18 Mr. Hartle?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: It is a larger 21 part of the business.</p> <p>22 QUESTIONS BY MR. RAFFERTY:</p> <p>23 Q. It's a much larger part of the 24 business than the IMC accounts, correct? 25 ISMC, I'm sorry.</p> | <p style="text-align: right;">Page 28</p> <p>1 Q. Okay. The CSMP -- because it 2 wasn't the CSMP before. It was the Lifestyle 3 drug management program, right? 4 A. Correct. 5 Q. And when we talk about -- when 6 I'm saying the CSMP, I'm talking about the 7 controlled substance monitoring program that 8 you have said is the foundation of the 9 responsibility and the job of the regulatory 10 affairs department. 11 Okay? 12 The CSMP was put into effect in 13 2008, right? 14 A. Correct. 15 Q. After the settlement with 16 the -- that McKesson entered into with the 17 DOJ where they settled claims of violations 18 of the Controlled Substance Act and paid a 19 \$13,250,000 fine, true? 20 MS. HENN: Objection to form. 21 THE WITNESS: It was 22 implemented in that time frame, right 23 at that time -- right after that time. 24 QUESTIONS BY MR. RAFFERTY: 25 Q. Well, in fact, the two -- and</p> |
| <p style="text-align: right;">Page 27</p> <p>1 MS. HENN: Objection to form. 2 THE WITNESS: Yes, it is. 3 QUESTIONS BY MR. RAFFERTY: 4 Q. Okay. When we talk about the 5 CSMP, you also agree that -- that was 6 implemented in 2008, correct? The first -- 7 the first CSMP was put into effect in 2008, 8 true? 9 A. Correct. 10 Q. Okay. And that was as a result 11 and immediately after paying the -- McKesson 12 paid that \$13,250,000 fine for the 13 allegations against them by the DEA and DOJ, 14 correct? 15 MS. HENN: Objection to form. 16 THE WITNESS: Could you state 17 that again for me, please? 18 QUESTIONS BY MR. RAFFERTY: 19 Q. Sure. 20 The CSMP that we're talking 21 about, put into effect by McKesson in 2008, 22 true? 23 A. The initial one is an expansion 24 of the Lifestyle drug monitoring program. It 25 was the next one in 2008.</p> | <p style="text-align: right;">Page 29</p> <p>1 in fact -- I'm sorry. And if I speak over 2 you at any time, it's just -- it's just a 3 habit, and so I apologize. And so just let 4 me know, or I'm sure Ms. Henn will let me 5 know, and I'll try not to do that. 6 But in fact, the 2008 7 settlement agreement mandated that you 8 implement a program to monitor for suspicious 9 orders, report suspicious orders and stop 10 shipments of -- when you determine there to 11 be a suspicious order, true? 12 MS. HENN: Objection. Form. 13 THE WITNESS: That type of 14 language was in the agreement, yes. 15 QUESTIONS BY MR. RAFFERTY: 16 Q. Okay. And in doing that, in 17 response to that, you implemented -- you 18 changed from the Lifestyle -- the Lifestyle 19 drug management program -- 20 A. Monitoring. 21 Q. Monitoring program, I'm sorry. 22 -- to the CS -- what you now 23 refer to as the CSMP, true? 24 A. True. 25 Q. Okay. And the CSMP, you agree,</p> |

| Page 30 | Page 32 |
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| <p>1 is a national policy for McKesson, right?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. Covers --</p> <p>5 A. It covers our -- all of our segments.</p> <p>7 Q. Yeah, it covers everybody, right?</p> <p>9 Every customer that you're selling narcotic painkillers to is supposed to be -- McKesson is supposed to be monitoring them and implementing through regulatory affairs the controlled substance monitoring program, correct?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. There's not -- because we saw those two regions, the east region and the west region. There's not a CSMP east with different policies and procedures and a CSMP west with different policies and procedures, is there?</p> <p>22 A. There's not.</p> <p>23 Q. Okay. It's just one CSMP?</p> <p>24 A. Correct.</p> <p>25 Q. And that CSMP covers both the</p> | <p>1 correct?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 THE WITNESS: In some ways we treat them different to accomplish the same goals.</p> <p>6 QUESTIONS BY MR. RAFFERTY:</p> <p>7 Q. So my answer would be yes?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: We do treat them differently in some ways.</p> <p>11 QUESTIONS BY MR. RAFFERTY:</p> <p>12 Q. Okay. Thank you.</p> <p>13 All right. I want to talk for a few minutes about the opioid epidemic in the United States.</p> <p>16 First of all, you agree that there is, in fact, an opioid epidemic in the United States, true?</p> <p>19 A. I do agree.</p> <p>20 Q. And that epidemic has been going on for years, correct?</p> <p>22 A. Based on what I read and what I know, absolutely.</p> <p>24 Q. Well, you actually read and know a lot of about the epidemic that's going</p> |
| <p>1 ISMC -- the ISMC customers as well as the RNA customers, correct?</p> <p>3 MS. HENN: Objection to form.</p> <p>4 THE WITNESS: It does, with some -- I'm sure we'll talk about this later -- some unique differences for this particular chain group.</p> <p>8 QUESTIONS BY MR. RAFFERTY:</p> <p>9 Q. Right.</p> <p>10 You treat the RNAs in some ways differently than you treat the small pharmacies, right, or the small chain pharmacies?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 QUESTIONS BY MR. RAFFERTY:</p> <p>16 Q. Inside the CSMP.</p> <p>17 A. We do. Have made adjustments based on the characteristics of that segment in different parts of our program.</p> <p>20 Q. Okay. I didn't ask you why.</p> <p>21 A. Okay.</p> <p>22 Q. My question was: You treat them differently inside the CSMP, that you treat the retail national accounts in some ways in the CSMP differently than the ISMCs,</p> | <p>1 on in the country, don't you?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 THE WITNESS: I do. That's part of my responsibility -- my business.</p> <p>6 QUESTIONS BY MR. RAFFERTY:</p> <p>7 Q. Yeah.</p> <p>8 In fact, that's a big part of your business is knowing exactly what's going on in the country in terms of the abuse of narcotic painkillers, right?</p> <p>12 A. It's part of my responsibility.</p> <p>13 Q. Okay.</p> <p>14 A. It's why I do what I do.</p> <p>15 Q. All right. In fact, you would agree that this epidemic has had a devastating effect on public health and welfare throughout the country, true?</p> <p>19 A. It has.</p> <p>20 Q. And in fact, you have spoken and actually given presentations about the opioid epidemic in the country, correct?</p> <p>23 A. I have.</p> <p>24 Q. In fact, would you agree that the opioid epidemic in the United States of</p> |

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| <p style="text-align: right;">Page 34</p> <p>1 America is the deadliest drug epidemic on 2 record in our country's history? 3 A. I'm not an epidemiologist, but 4 I would believe, yes. 5 Q. Okay. Well, let's look at 6 1437.3, which we will mark as Exhibit 41 -- 7 42.</p> <p>8 (McKesson-Hartle Exhibit 42 9 marked for identification.)</p> <p>10 QUESTIONS BY MR. RAFFERTY:</p> <p>11 Q. All right, Mr. Hartle. You see 12 this controlled substance monitoring, 13 Discount Drug Mart?</p> <p>14 Do you recognize that?</p> <p>15 A. I absolutely do.</p> <p>16 Q. Okay. And it appears, though 17 this one does have a date on it, it's 18 September 29, 2017. So not really all that 19 long ago, right?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. Less than a year ago, 22 right?</p> <p>23 A. That is.</p> <p>24 Q. And you see down there Nate 25 Hartle, senior director, regulatory affairs,</p> | <p>1 to 2014."</p> <p>2 Did I read that right?</p> <p>3 A. You did.</p> <p>4 Q. Okay. Once again, you agree 5 with that statement, right?</p> <p>6 A. These are part of the 7 presentation that I gave.</p> <p>8 Q. Okay. If we now go to the next 9 page, page 4, it says over there, "Scope of 10 the problem." On an average day, an average 11 day in the US, more than 650,000 opioid 12 prescriptions are dispensed.</p> <p>13 Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. 3,900 people initiate 16 non-medical use of prescription opioids, and 17 then it says 580 people initiate heroin use.</p> <p>18 You see that?</p> <p>19 A. I see those.</p> <p>20 Q. And in fact, opioid abuse and 21 addiction is a gateway to heroin use and 22 addiction, correct?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: I'm not a medical 25 expert, but, you know, I've read</p> |
| <p style="text-align: right;">Page 35</p> <p>1 right?</p> <p>2 A. Yeah, it's my document.</p> <p>3 Q. Okay. Do you recall giving 4 this presentation?</p> <p>5 A. I do.</p> <p>6 MR. RAFFERTY: If we could, 7 let's turn to .3, Corey.</p> <p>8 QUESTIONS BY MR. RAFFERTY:</p> <p>9 Q. You see that up in the top of 10 one of your slides there on page 3, a 11 headline, "Deadliest Drug Epidemic on Record 12 in Our Nation's History"?</p> <p>13 Do you see that?</p> <p>14 A. Yep.</p> <p>15 Q. You wouldn't have put that in 16 your presentation unless you thought it was 17 true, right?</p> <p>18 A. No.</p> <p>19 Q. So you don't dispute that, 20 right?</p> <p>21 A. I do not.</p> <p>22 Q. Okay. It then goes on and 23 says, "The drug problems of past decades pale 24 when compared to the current opioid epidemic 25 which has killed 165,000 Americans from 2000</p> | <p>1 things, I use data from different 2 sources, and they say that.</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. I don't -- okay. As head of 5 regulatory affairs and the controlled 6 substance monitoring program for national 7 chains of McKesson, would you agree that in 8 fact narcotic painkiller abuse, opioid abuse, 9 is a gateway to heroin use?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 THE WITNESS: I would agree 12 that it can be, yeah.</p> <p>13 QUESTIONS BY MR. RAFFERTY:</p> <p>14 Q. Okay. And in fact, 78 people 15 die from an opioid-related overdose every day 16 according to your slide.</p> <p>17 Do you see that?</p> <p>18 A. I see that.</p> <p>19 Q. In fact, if you go on to your 20 presentation, page 16, .16, talking about the 21 heroin use, it says -- or what you say in 22 your presentation, or what you put in your 23 presentation, was people who are addicted 24 to -- and then it says, "Opioid painkillers 25 are 40 times more likely to be addicted to</p> |

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| <p>1 heroin."</p> <p>2 Do you see that?</p> <p>3 A. I see that.</p> <p>4 Q. And you agree with that?</p> <p>5 A. I put them in the slides as</p> <p>6 part of the information that I keep current</p> <p>7 on.</p> <p>8 Q. You agree with that?</p> <p>9 A. Again, I'm not an expert in</p> <p>10 terms of numbers, but I agree with what</p> <p>11 they're putting out.</p> <p>12 Q. Okay.</p> <p>13 A. The concepts --</p> <p>14 Q. And you wouldn't have put it</p> <p>15 out there if you thought it was inaccurate,</p> <p>16 right?</p> <p>17 A. I would not have.</p> <p>18 Q. Okay. Talking about the</p> <p>19 heroin, the gateway to heroin, if we could,</p> <p>20 let's have 1580.</p> <p>21 (McKesson-Hartle Exhibit 43</p> <p>22 marked for identification.)</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. This is another presentation</p> <p>25 that you gave, Mr. Hartle. We'll mark this</p> | <p>Page 38</p> <p>1 conference call, maybe. I don't remember</p> <p>2 exactly all the details from back then, but</p> <p>3 this is my work, yeah.</p> <p>4 Q. It doesn't matter. This is</p> <p>5 your work.</p> <p>6 A. Yeah.</p> <p>7 Q. That's all I wanted to get.</p> <p>8 Okay. So if you look here it</p> <p>9 says, "Addressing prescription drug abuse and</p> <p>10 heroin use." And you see it's got a little</p> <p>11 flow chart, you see?</p> <p>12 And it goes from the 259</p> <p>13 million prescriptions of opioids and then --</p> <p>14 which goes into prescription drug misuse</p> <p>15 resulting in 1.4 million emergency room</p> <p>16 visits in 2011.</p> <p>17 And then that follows with</p> <p>18 "four out of five users started by</p> <p>19 misusing" -- in terms of heroin use, "four</p> <p>20 out of five users started by misusing</p> <p>21 prescription opioids."</p> <p>22 You see that?</p> <p>23 A. I see that.</p> <p>24 Q. And then overdose, "16,000</p> <p>25 prescription opioid deaths; heroin overdoses</p> |
| <p>1 as Exhibit 43. This is another presentation</p> <p>2 that you gave. If you look at this --</p> <p>3 MR. RAFFERTY: Corey, if you</p> <p>4 could pull it up, please, 1.580 --</p> <p>5 1.1580.</p> <p>6 All right. Just give me the</p> <p>7 Elmo. I'll just use the Elmo.</p> <p>8 QUESTIONS BY MR. RAFFERTY:</p> <p>9 Q. You see there it says,</p> <p>10 "Regulatory affairs update, RNA leadership</p> <p>11 team, Nate Hartle, senior director,</p> <p>12 regulatory affairs."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. November 20, 2015.</p> <p>16 You see that?</p> <p>17 A. I do.</p> <p>18 Q. Okay. Do you recall giving</p> <p>19 this presentation?</p> <p>20 A. I'm going to scan through it</p> <p>21 real quick just so I can refresh --</p> <p>22 Q. Well, let me -- and feel free</p> <p>23 to, but I'm just going to -- I'm going to</p> <p>24 start with the second page, so...</p> <p>25 A. I -- I believe it was a</p> | <p>Page 39</p> <p>1 rapidly increasing."</p> <p>2 Do you see that?</p> <p>3 A. I do see that.</p> <p>4 Q. "Four out of five users of</p> <p>5 heroin started by misusing prescription</p> <p>6 opioids."</p> <p>7 Did I read that right?</p> <p>8 A. That's what it says.</p> <p>9 MR. RAFFERTY: Now, if we could</p> <p>10 have 1.1355, Corey, that we'll mark as</p> <p>11 Exhibit 44.</p> <p>12 (McKesson-Hartle Exhibit 44</p> <p>13 marked for identification.)</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. Oh, this is a document that</p> <p>16 says -- it's titled "Prescription Drug Abuse:</p> <p>17 The National Perspective."</p> <p>18 It's got McKesson up there in</p> <p>19 the top right corner.</p> <p>20 Do you see that?</p> <p>21 A. I see that.</p> <p>22 Q. And down by the bottom middle</p> <p>23 it's 2014, McKesson Corporation, correct?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. If we go into this and</p> |

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| <p style="text-align: right;">Page 42</p> <p>1 you turn to the second page -- .2, Corey -- 2 and it talks about the current landscape, 3 epidemic. 4 Do you see that? 5 A. I see that. 6 Q. And then it says, "Prescription 7 drug overdoses, a US epidemic. In 2007, 8 approximately 27,000 unintentional drug 9 overdose deaths occurred in the United 10 States, one death every 19 minutes. 11 Prescription drug abuse is the fastest 12 growing drug problem in the United States." 13 You see that? 14 A. I do. 15 Q. A death every 19 minutes, 16 right? 17 A. Right. That's what it says. 18 Q. Okay. In fact, your company 19 has been in the business of selling opioid 20 and narcotic painkillers for many years, 21 hasn't it? 22 A. It has. 23 Q. The same opioid and narcotic 24 drugs that are at the core of the epidemic 25 that we've just been talking about, true?</p> | <p style="text-align: right;">Page 44</p> <p>1 so we are part of that. 2 Q. You're part of it because 3 you're part of society; is that what you 4 mean? 5 A. We're part of the supply chain 6 and -- 7 Q. A closed supply chain, right? 8 A. Right. 9 Q. Meaning not everybody gets to 10 sell drugs, narcotic drugs, in the United 11 States, do they? 12 A. They do not. 13 Q. You have to register, and you 14 have to get permission from the DEA and the 15 federal government, right? 16 A. You do. 17 Q. And as a result of that 18 privilege to sell those, as a result of that 19 ability to sell those, you have certain 20 responsibilities, don't you? 21 A. We do. 22 Q. And part of those 23 responsibilities are to prevent diversion of 24 those narcotic drugs, right? 25 MS. HENN: Objection to form.</p> |
| <p style="text-align: right;">Page 43</p> <p>1 MS. HENN: Objection to form. 2 THE WITNESS: Those drugs are 3 part of the epidemic. 4 QUESTIONS BY MR. RAFFERTY: 5 Q. And in fact, it is an epidemic 6 that you have testified McKesson is partially 7 responsible for, correct? 8 MS. HENN: Objection to form. 9 THE WITNESS: That we are part 10 of the supply chain and have -- 11 absolutely play a role. 12 QUESTIONS BY MR. RAFFERTY: 13 Q. And you are partially 14 responsible for the United States -- the 15 epidemic and the societal costs as a result 16 of prescription drug abuse in the United 17 States, correct? 18 MS. HENN: Objection to form. 19 QUESTIONS BY MR. RAFFERTY: 20 Q. You've testified to that. 21 A. What I said yesterday is I 22 said, yes, we are partially in the -- what I 23 mean by that is, again, we are part of the 24 overall supply chain and play a role and are 25 in the broader -- we're part of the society,</p> | <p style="text-align: right;">Page 45</p> <p>1 THE WITNESS: It's part of our 2 responsibility. 3 QUESTIONS BY MR. RAFFERTY: 4 Q. Right. 5 And what happens when you fail 6 in that responsibility and drugs are diverted 7 to nonmedical use? 8 MS. HENN: Objection to form. 9 QUESTIONS BY MR. RAFFERTY: 10 Q. The epidemic grows, doesn't it, 11 Mr. Hartle? 12 MS. HENN: Objection to form. 13 THE WITNESS: There's many 14 things can that happen when drugs are 15 diverted. 16 QUESTIONS BY MR. RAFFERTY: 17 Q. One of those is the epidemic 18 that we've just been going through increases 19 and grows, doesn't it? 20 A. It can. 21 Q. And it has? 22 A. It has grown. 23 Q. That's right. 24 And in fact, what you said 25 yesterday, so that we're clear, if I could</p> |

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| 1 have the Elmo -- 2 MR. RAFFERTY: And this is 3 yesterday's rough transcript at 4 page 283, starting on line 17, 5 Counsel. 6 QUESTIONS BY MR. RAFFERTY: 7 Q. So if we look at this, it says 8 specifically -- you were asked the question: 9 "Well, back to McKesson Corporation, which is 10 you sitting in the chair today. Knowing what 11 you know as the 30(b)(6) representative, the 12 corporate designee, knowing about your past 13 conduct" -- and when -- "your" there means 14 McKesson's past conduct -- "knowing about the 15 past interactions with the DEA, I'm going to 16 ask you again: Does McKesson Corporation 17 accept partial responsibility for the 18 societal costs of prescript -- of 19 prescription drug abuse in America?" 20 Do you see that? 21 A. I see that. 22 Q. And then you go on and you 23 say -- you say: "Again, you know, we're part 24 of the closed system, so we're responsible 25 for preventing diversion." 1 And then you're asked again: 2 "So the answer is?" 3 And you say: "Again, I think 4 we're responsible for something. I don't 5 know what. How you define all societal 6 costs. I still believe it depends on 7 different circumstances." 8 Question: "Sure. We're not 9 going to parse out percentages." 10 Answer: "Yeah." 11 Question: "Just talking 12 globally for McKesson Corporation, so I don't 13 want to put words in your mouth because it's 14 got to come out of your mouth. So the answer 15 is yes or no?" 16 And you say: "I would say yes, 17 partially." 18 Do you recall that? 19 A. I do. 20 Q. And that is in response to the 21 original question, which was -- because that 22 was a long colloquy or discussion. That's an 23 answer to the original question that you were 24 being asked by counsel, correct? 25 A. That was the original question. | Page 46 1 Q. Yeah. 2 And that was: "Does McKesson 3 Corporation accept partial responsibility for 4 the societal costs of prescription drugs in 5 America?" 6 Answer: "I would say yes, 7 partially." 8 MS. HENN: Objection to form. 9 QUESTIONS BY MR. RAFFERTY: 10 Q. Do you recall giving that 11 testimony yesterday? 12 A. I do. 13 Q. Okay. You understand that 14 yesterday when you were sitting in that chair 15 you were under oath, correct? 16 A. Absolutely. 17 Q. Okay. Just like you are today? 18 A. Absolutely. 19 Q. Okay. So the epidemic that 20 we've been going back -- we've been reviewing 21 in some of the presentations you made about 22 the epidemic, you would agree McKesson is 23 partially responsible for that epidemic, 24 correct? 25 MS. HENN: Objection to form. Page 47 1 QUESTIONS BY MR. RAFFERTY: 2 Q. Just as you testified 3 yesterday. 4 A. Yeah, again, as I testified 5 yesterday and as -- my intent is we are part 6 of that system, so of course we're 7 accountable and have a role to play within 8 that. 9 Q. I'm not saying a role; I'm 10 talking about responsibility. You have 11 responsibility, right? 12 You have to -- you accept 13 partial responsibility for this epidemic, 14 correct? 15 MS. HENN: Objection to form. 16 THE WITNESS: Accept 17 responsibility for the role that we 18 have, and I clearly know there's an 19 epidemic. 20 QUESTIONS BY MR. RAFFERTY: 21 Q. Well, you -- and you know it's 22 as a result of the diversion of narcotics, 23 right? 24 MS. HENN: Objection to form. 25 THE WITNESS: Clearly that's |
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| 1 part of it. 2 QUESTIONS BY MR. RAFFERTY: 3 Q. Clearly. 4 And clearly you sell an awful 5 lot of narcotics. You, McKesson, sell an 6 awful lot of narcotics in the United States, 7 right? 8 A. We do. 9 Q. And in fact, you've been -- you 10 have faced investigations by the DEA and the 11 Department of Justice in regards to your 12 failure to prevent diversion of those 13 narcotics in America, true? 14 MS. HENN: Objection to form. 15 THE WITNESS: Could you restate 16 that? 17 QUESTIONS BY MR. RAFFERTY: 18 Q. You have -- you, as McKesson, 19 you, McKesson -- 20 A. Yeah. 21 Q. -- has faced investigations for 22 McKesson's failure, while selling narcotics 23 across America, for failing to prevent 24 diversion of those narcotics in America. 25 MS. HENN: Objection to form. | Page 50 1 THE WITNESS: I was there 2 during -- during that time. 3 QUESTIONS BY MR. RAFFERTY: 4 Q. Okay. And in fact, in that 5 agreement, in that -- in the 2017 settlement, 6 McKesson accepted responsibility for the -- 7 for failing to prevent diversion, according 8 to that -- according to the allegations 9 brought, correct? 10 MS. HENN: Objection to form. 11 THE WITNESS: We accepted 12 responsibility for certain -- certain 13 orders and things like that. We did 14 accept responsibility in part. 15 QUESTIONS BY MR. RAFFERTY: 16 Q. Okay. And when we say "accept 17 responsibility," you mean accept 18 responsibility for failing to prevent the 19 diversion of narcotics in America, right? 20 MS. HENN: Objection to form. 21 THE WITNESS: Certain scenarios 22 related to suspicious orders. 23 QUESTIONS BY MR. RAFFERTY: 24 Q. Let me ask that again. When we 25 say "accept responsibility," you mean accept |
| 1 QUESTIONS BY MR. RAFFERTY: 2 Q. Correct? 3 A. We faced those allegations and 4 held in terms. 5 Q. Right. 6 And those allegations, we're 7 going to get into those allegations in a bit. 8 But in those -- in those allegations, or 9 after those allegations were made, after 10 those investigations, McKesson paid a fine of 11 \$13.25 million in 2008, correct? 12 A. Correct. 13 Q. And in 2017 paid a 14 record-setting \$150 million fine, correct? 15 A. That's correct. 16 Q. And in 2017, in the 2017 17 settlement -- you've reviewed that, right? 18 A. I have. 19 Q. You were actually there as 20 senior director of regulatory affairs during 21 the time that McKesson was being investigated 22 and at the time that that -- that agreement 23 was entered into between McKesson and the 24 Department of Justice, right? 25 MS. HENN: Objection to form. | Page 51 1 responsibility for failing to prevent the 2 diversion of narcotics in America. That's 3 what you were accepting responsibility for in 4 the 2017 settlement agreement, true? 5 MS. HENN: Objection to form. 6 THE WITNESS: Again, I'd like 7 to look at, I mean, the language. I 8 know we accepted -- 9 QUESTIONS BY MR. RAFFERTY: 10 Q. You don't know? 11 A. No, I do. We accepted 12 responsibility -- 13 Q. For -- 14 A. -- you know. 15 Q. The allegations in that, you 16 know what the allegations were, right? 17 A. Right. 18 Q. And they surround McKesson's 19 failure to prevent diversion in America, 20 diversion of narcotics in America, true? 21 MS. HENN: Objection to form. 22 QUESTIONS BY MR. RAFFERTY: 23 Q. You know that. 24 MS. HENN: Objection to form. 25 THE WITNESS: I understand, |

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| 1 related to maintaining effective 2 controls in certain situations with 3 suspicious orders, yes. 4 QUESTIONS BY MR. RAFFERTY: 5 Q. Suspicious orders which then 6 allowed drugs to be diverted in the United 7 States, true? 8 MS. HENN: Objection to form. 9 THE WITNESS: That can be the 10 case. Not every suspicious order is 11 diversion. 12 QUESTIONS BY MR. RAFFERTY: 13 Q. Why do you report suspicious 14 orders, Mr. Hartle? Is it just to check the 15 box kind of thing? 16 MS. HENN: Objection to form. 17 QUESTIONS BY MR. RAFFERTY: 18 Q. Why is there a requirement by 19 the DEA and the DOJ that has been in place 20 since 1971 under the Controlled Substances 21 Act to report suspicious orders? 22 MS. HENN: Objection to form. 23 THE WITNESS: It's one of the 24 things intended to prevent diversion. 25 | Page 54 1 QUESTIONS BY MR. RAFFERTY: 2 Q. Yeah. 3 The costs are so high as a 4 result of the epidemic in the United States 5 of the use of narcotics that the GAO 6 specifically said, "Diversion is a 7 multi-billion dollar illicit market 8 nationwide, and diversion is causing 9 incalculable costs to society." 10 Have you ever seen that? 11 MS. HENN: Objection to form. 12 THE WITNESS: I've not seen 13 that specific language, but I 14 understand what you're talking about. 15 It's a number that's very difficult to 16 calculate and assumed to be very, very 17 large. 18 (McKesson-Hartle Exhibit 45 19 marked for identification.) 20 QUESTIONS BY MR. RAFFERTY: 21 Q. I'm attaching Exhibit 45, the 22 May of 2002 GAO report. 23 Did you ever see a copy of 24 this? And it's a long document. I'm going 25 to just refer you to one particular piece. |
| 1 QUESTIONS BY MR. RAFFERTY: 2 Q. There you go. 3 And in fact, what happens when 4 you fill suspicious orders, they get diverted 5 into illegal uses and feed the epidemic in 6 the United States, true? 7 MS. HENN: Objection to form. 8 THE WITNESS: Again, that can 9 happen. 10 QUESTIONS BY MR. RAFFERTY: 11 Q. Okay. 12 A. That can be, but not all 13 suspicious orders per the regulations are 14 diversion, diverted. 15 Q. Now, you know that since 16 2002 -- since 2002, the diversion of 17 narcotics in the United States has resulted 18 in an epidemic in the United States and 19 incalculable costs to society. 20 Would you agree with that 21 statement? 22 MS. HENN: Objection to form. 23 THE WITNESS: Can you say it 24 once again, please? 25 | Page 55 1 QUESTIONS BY MR. RAFFERTY: 2 Q. All right. 3 A. I don't. 4 Q. Take a look at page -- 5 MR. RAFFERTY: For the record, 6 that was P1.1076, which is now 7 Exhibit 45 to the deposition. 18 QUESTIONS BY MR. RAFFERTY: 19 Q. And if you could, look at the 20 cover page -- 21 MR. RAFFERTY: Oh, I need the 22 computer back, please. 23 QUESTIONS BY MR. RAFFERTY: 24 Q. You see that, the GAO? Are you 25 familiar with the GAO? |

| Page 58 | Page 60 |
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| <p>1 A. I am. 2 Q. United States government 3 accounting office? 4 A. It's a part of some of the work 5 in my previous career. 6 Q. Okay. In May 2002, 7 "Prescription drug state monitoring programs 8 provide useful tools to reduce diversion." 9 Do you see that? 10 A. I see that. 11 Q. Okay. And then if you turn to 12 .6, "The diversion" -- down in background. 13 It says, "The diversion and abuse" -- 14 You see where it starts to say 15 that? 16 A. I do. 17 Q. Why don't you read that first 18 sentence for me out loud. 19 A. "The diversion and abuse of 20 prescription drugs are associated with 21 incalculable costs to society in terms of 22 addiction, overdose, death and related 23 criminal activities." 24 Q. And then the next sentence? 25 A. "DEA has stated that the</p> | <p>1 A. I do remember this from 2 yesterday. 3 Q. Okay. 4 MR. RAFFERTY: If we could pull 5 it up, Corey, please. 1.851. 6 Not that one. That's 84. 7 1.851. 8 There we go. All right. 9 QUESTIONS BY MR. RAFFERTY: 10 Q. "State of prescription drug 11 abuse." Once again, I'll tell you that the 12 metadata -- because there's no date on this 13 once again, but the metadata indicates that 14 this was created September 30, 2015. 15 Okay? 16 A. Okay. 17 Q. All right. At that time you 18 were there at McKesson, senior director of 19 regulatory affairs, right? 20 A. I was. 21 Q. And you know Gary Boggs? 22 A. I do know Gary. 23 Q. He was the senior director in 24 charge of the east -- the east region, 25 correct?</p> |
| <p>1 diversion and abuse of legitimately produced 2 controlled pharmaceuticals constitute a 3 multi-billion dollar illicit market 4 nationwide." 5 Q. Now that's in 2002, some 6 16 years ago, right? 7 A. Correct. 8 Q. And McKesson at that time is 9 selling throughout the country narcotic 10 painkillers, correct? 11 A. They were. 12 Q. And they continue to today, 13 correct? 14 A. We do. 15 Q. Now, fast-forwarding for just a 16 moment to 2015, you were shown, I believe, a 17 portion of this presentation, or you've seen 18 this presentation, at least a portion of it. 19 (McKesson-Hartle Exhibit 46 20 marked for identification.) 21 QUESTIONS BY MR. RAFFERTY: 22 Q. This will be Exhibit P1.851, 23 which will be Exhibit 46 to the deposition. 24 Do you recall being shown this 25 presentation earlier?</p> | <p>1 MS. HENN: Objection to form. 2 THE WITNESS: He was and still 3 is. 4 QUESTIONS BY MR. RAFFERTY: 5 Q. Okay. Now, in talking about 6 the state of prescription drug abuse, down 7 here at the bottom of this, if you look at 8 that cover page, it says, "Privileged and 9 confidential. For internal use only." 10 Do you see that? 11 A. I see that. 12 Q. So this wasn't something that 13 McKesson was willing to share with the public 14 or outside of McKesson, right? What's 15 written in these pages is for internal 16 purposes only -- 17 MS. HENN: Objection. 18 QUESTIONS BY MR. RAFFERTY: 19 Q. -- not to be shared outside the 20 walls of McKesson. 21 MS. HENN: Objection to form. 22 THE WITNESS: That's what that 23 label infers. 24 QUESTIONS BY MR. RAFFERTY: 25 Q. I mean --</p> |

| Page 62 | Page 64 |
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| <p>1 A. I know what it means. 2 Q. You've put it on some of your 3 presentations, haven't you? 4 A. It's been on some. 5 Q. Okay. And that's what that 6 means. It means don't share it with anybody 7 outside the walls of McKesson, right? 8 MS. HENN: Objection to form. 9 THE WITNESS: Yes. 10 QUESTIONS BY MR. RAFFERTY: 11 Q. All right. Let's look at what 12 Mr. Boggs says in this in terms of the costs 13 associated with this epidemic. 14 If you would, turn to page .7. 15 A. Can I ask a clarifying 16 question? You mentioned 2015. 17 Q. Yeah. 18 A. Maybe I'm wrong, but I thought 19 yesterday we were talking about 2013, right 20 around the time that when Gary joined. 21 Q. I don't -- all I can tell you 22 is what the -- the material that was provided 23 to me by McKesson and their counsel -- 24 A. Okay. 25 Q. -- indicates that this was</p> | <p>1 And then if you go to .24, "A 2 national epidemic. More than 45 people die 3 per day" -- I'm sorry, I'll wait until you 4 get there. 5 A. 24, you said? 6 Q. .24, sir. 7 A. Okay. Sorry. 8 Q. You there? 9 A. I am. 10 Q. "A national epidemic. More 11 than 45 people die per day from prescription 12 opioids, from 4,030 in '99 to 16,651 in 13 2010." 14 You see that? 15 A. I do see that. 16 Q. "One in 20 people in the US 17 reported using prescription painkillers 18 nonmedically in the past year. 6,700 new 19 initiates per day, per day, in 2012." That 20 means 60 -- well, tell me what that means, 21 6,700 new initiates. 22 MS. HENN: Objection to form. 23 THE WITNESS: I'm not 24 100 percent sure, but I'm assuming 67 25 new -- they were taking prescriptions</p> |
| <p>1 produced in September of 2015. 2 A. Okay. 3 Q. Okay? 4 A. Okay. 5 Q. If you look at .7, you see that 6 chart? And you see how -- that line there, 7 the top line, as sales increase so do opioid 8 deaths going all the way back to 1999? 9 A. I see that chart. 10 Q. And in fact, increasing also in 11 addition to the deaths are opioid treatment 12 admissions. 13 You see that? 14 A. I've seen this before. 15 Q. And your sale of narcotics -- 16 when I say "your," I mean McKesson. 17 McKesson's sales of narcotic painkillers had 18 increased over that period of time, true? 19 MS. HENN: Objection to form. 20 THE WITNESS: True. I don't 21 know if I've seen the exact rate 22 and -- you know, in this context, but 23 true. 24 QUESTIONS BY MR. RAFFERTY: 25 Q. Right.</p> | <p>1 for the first time. 2 QUESTIONS BY MR. RAFFERTY: 3 Q. Prescription opioids? 4 A. Opioids. 5 Q. Or nonprescription opioids, 6 right? 7 MS. HENN: Objection to form. 8 QUESTIONS BY MR. RAFFERTY: 9 Q. Taking opioids, right? 10 MS. HENN: Objection to form. 11 THE WITNESS: I believe to be 12 that -- what that means. 13 QUESTIONS BY MR. RAFFERTY: 14 Q. Okay. And then it says down 15 there -- so here, McKesson, through Gary 16 Boggs, actually estimates the economic impact 17 to America being greater than \$57 billion per 18 year. 19 Did I read that right? 20 A. That's what it says. 21 Q. Now, we talked earlier about 22 some of the -- 23 MS. HENN: Objection to form. 24 Belated. The last question. 25</p> |

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| <p style="text-align: right;">Page 66</p> <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. Okay. All right. We talked a 3 little bit earlier about the rights or -- 4 excuse me, strike that.</p> <p>5 We talked a little bit earlier 6 about the duties and responsibilities that 7 come along with selling and distributing 8 narcotics in the United States.</p> <p>9 Do you recall that?</p> <p>10 A. We have talked about that.</p> <p>11 Q. Okay. In fact, distributors 12 and wholesalers of narcotics have a great 13 responsibility to help prevent the diversion 14 and stop the diversion of narcotics in 15 America, true?</p> <p>16 MS. HENN: Objection to form.</p> <p>17 MR. SUDDATH: Objection.</p> <p>18 THE WITNESS: I think everyone 19 in the closed distribution has a great 20 responsibility to prevent diversion.</p> <p>21 QUESTIONS BY MR. RAFFERTY:</p> <p>22 Q. Including the wholesalers and 23 distributors such as McKesson, correct?</p> <p>24 MS. HENN: Objection to form.</p> <p>25 THE WITNESS: We're included in</p> | <p style="text-align: right;">Page 68</p> <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. Okay. If we could, let's go 3 to --</p> <p>4 MS. HENN: Counsel, I just 5 wanted to make one clarifying note. 6 Yesterday Mr. Farrell said that 7 the McKesson metadata for this 8 document indicated that the 9 presentation date is late 2013. So 10 there's some discrepancy between what 11 he said and what you said.</p> <p>12 MR. RAFFERTY: I say it's 13 September 2015.</p> <p>14 MS. HENN: Just wanted to make 15 that clear for the record because the 16 witness had noted that he recalled 17 that.</p> <p>18 MR. RAFFERTY: I'm sorry, I 19 didn't mean to interrupt you, 20 Ms. Henn.</p> <p>21 MS. HENN: That's all right.</p> <p>22 QUESTIONS BY MR. RAFFERTY:</p> <p>23 Q. Does that change your testimony 24 in regards to that document we went through?</p> <p>25 A. No, it doesn't change my</p> |
| <p style="text-align: right;">Page 67</p> <p>1 that, correct.</p> <p>2 QUESTIONS BY MR. RAFFERTY:</p> <p>3 Q. If we look at the second page 4 of Mr. Boggs' presentation, it says, "The 5 impact of effective compliance."</p> <p>6 Do you see that?</p> <p>7 A. I see that title.</p> <p>8 Q. Effective compliance and what 9 impact it can have in America, right?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 QUESTIONS BY MR. RAFFERTY:</p> <p>12 Q. It says, "Protecting America 13 from prescription drug diversion," right?</p> <p>14 That's what it says at the top?</p> <p>15 A. It does.</p> <p>16 Q. Okay. And then after that it 17 says, "The impact of effective compliance," 18 right?</p> <p>19 A. It does.</p> <p>20 Q. Okay. So compliance in regards 21 to diversion, right?</p> <p>22 MS. HENN: Objection to form.</p> <p>23 THE WITNESS: I believe that's 24 the core of his presentation.</p> | <p style="text-align: right;">Page 69</p> <p>1 testimony. I just wanted to be clear of the 2 timing in terms of, you know, Gary's role, 3 when he came on board with McKesson and the 4 context of the presentation.</p> <p>5 Q. But it doesn't change your 6 testimony, true?</p> <p>7 A. It doesn't change my testimony.</p> <p>8 Q. Okay. If we could, let's go to 9 .8 of the presentation. "The Controlled 10 Substances Act. Congress" --</p> <p>11 You there?</p> <p>12 A. Yeah. Sorry.</p> <p>13 Q. "The Controlled Substances 14 Act." Talked about that earlier. That's the 15 act that was passed by United States Congress 16 in 1971.</p> <p>17 You recall that, right?</p> <p>18 A. I do.</p> <p>19 Q. Okay. "Congress carve out for 20 controlled substances. Establishes a closed 21 system of distribution."</p> <p>22 Closed system. That means not 23 everybody can come in and just start selling 24 and distributing narcotic painkillers, right?</p> <p>25 A. Correct.</p> |

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| <p style="text-align: right;">Page 70</p> <p>1 Q. Okay. "Creates checks and 2 balances between registrants to protect the 3 public health and safety."</p> <p>4 Registrants. That is the 5 people who are allowed to manufacture, sell 6 and distribute narcotics, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Of which McKesson is 9 one, correct?</p> <p>10 A. We are.</p> <p>11 Q. Okay. And the purpose of the 12 Controlled Substance Act was to protect the 13 public health and safety, correct?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 THE WITNESS: It's one of the 16 overriding purposes.</p> <p>17 QUESTIONS BY MR. RAFFERTY:</p> <p>18 Q. And since 1971 and the passage 19 of the Controlled Substances Act -- if you 20 turn to page .9, here Mr. Boggs has "Checks 21 and Balances Under the CSA." Distributors of 22 controlled substances, and then it lays out a 23 quote from the Controlled Substances Act. 24 Do you see that?</p> <p>25 A. I do.</p> | <p style="text-align: right;">Page 72</p> <p>1 Prescription Drug Diversion: The Impact of 2 Effective Compliance."</p> <p>3 So what this is saying is when 4 there's not effective compliance of the 5 Controlled Substance Act, disasters can 6 happen, right?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 QUESTIONS BY MR. RAFFERTY:</p> <p>9 Q. That shows a building 10 collapsing, correct?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 THE WITNESS: It does show a 13 building collapsing. I'm not sure 14 what the speaking points and the 15 context was exactly, but it shows a 16 building collapsing.</p> <p>17 QUESTIONS BY MR. RAFFERTY:</p> <p>18 Q. You can't get the general 19 import of that particular slide from this?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: I understand --</p> <p>22 QUESTIONS BY MR. RAFFERTY:</p> <p>23 Q. And it means that if there's 24 not effective compliance, then it can result 25 in catastrophe, disaster, that type of thing,</p> |
| <p style="text-align: right;">Page 71</p> <p>1 Q. Okay. "The registrant shall 2 design and operate a system to disclose to 3 the registrant suspicious orders of 4 controlled substances. Suspicious orders 5 include orders of unusual size, orders 6 deviating substantially from a normal pattern 7 and orders of unusual frequency."</p> <p>8 Do you see that?</p> <p>9 A. I see that.</p> <p>10 Q. And you agree that is a section 11 from the Controlled Substances Act that has 12 been in place since 1971, true?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Now, in terms of the -- 15 MS. HENN: Objection to form. 16 Sorry.</p> <p>17 QUESTIONS BY MR. RAFFERTY:</p> <p>18 Q. In terms of the ability -- 19 well, let's turn to page 13. "What can 20 happen when these checks and balances 21 collapse."</p> <p>22 Do you see that?</p> <p>23 A. I see that.</p> <p>24 Q. When there's -- so the title of 25 this presentation is "Protecting America from</p> | <p style="text-align: right;">Page 73</p> <p>1 correct?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 THE WITNESS: Something bad, of 4 course.</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. Something really bad?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 QUESTIONS BY MR. RAFFERTY:</p> <p>9 Q. That's not just bad. You see 10 the building collapsing?</p> <p>11 Do you consider that bad or 12 catastrophic?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: I consider that 15 bad.</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. Bad. Okay.</p> <p>18 A. Yeah, I don't -- however you 19 want to phrase it, it's --</p> <p>20 Q. No, that's -- hey, you're the 21 one testifying. Mr. Hartle thinks that this 22 is bad.</p> <p>23 Okay. So we go to now your 24 ability to try to prevent that collapse. 25 Do you see the word there,</p> |

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| 1 "collapse"? | Page 74 |
| 2 A. I see that. | Page 76 |
| 3 Q. McKesson has a particular | |
| 4 ability or power as a distributor to prevent | |
| 5 that collapse, don't they? | |
| 6 MS. HENN: Objection to form. | |
| 7 THE WITNESS: We have a role in | |
| 8 prevention. | |
| 9 QUESTIONS BY MR. RAFFERTY: | |
| 10 Q. An important role? | |
| 11 A. Important, absolutely. | |
| 12 Q. Yeah. Okay. | |
| 13 In fact, if we go to page .37, | |
| 14 do you see there it says, "Distributors have | |
| 15 great power"? Not just power, but great | |
| 16 power. | |
| 17 Do you see that? | |
| 18 A. I see that. | |
| 19 Q. And you agree with that, right? | |
| 20 MS. HENN: Objection to form. | |
| 21 QUESTIONS BY MR. RAFFERTY: | |
| 22 Q. Distributors have great power | |
| 23 when it comes to the ability to prevent the | |
| 24 diversion of narcotics in the United States? | |
| 25 MS. HENN: Objection to form. | |
| 1 THE WITNESS: I don't know if I | Page 75 |
| 2 would phrase it as great power, but an | |
| 3 important role, absolutely. | |
| 4 QUESTIONS BY MR. RAFFERTY: | |
| 5 Q. Okay. Well, Mr. Boggs referred | |
| 6 to it as great power. We can agree on that, | |
| 7 right? | |
| 8 MS. HENN: Objection to form. | |
| 9 THE WITNESS: He did. It's in | |
| 10 his deck. | |
| 11 QUESTIONS BY MR. RAFFERTY: | |
| 12 Q. And he's a senior director of | |
| 13 regulatory affairs, same hierarchical | |
| 14 position as you are, right? | |
| 15 MS. HENN: Objection to form. | |
| 16 QUESTIONS BY MR. RAFFERTY: | |
| 17 Q. What we saw there back in 2015? | |
| 18 A. He is. | |
| 19 Q. Okay. And what he describes as | |
| 20 great control -- or I'm sorry, great power is | |
| 21 it says you control the supply to downstream | |
| 22 customers. | |
| 23 Do you see that last bullet | |
| 24 point there? | |
| 25 A. I do. | |
| 1 Q. And it's true, right? If you | Page 77 |
| 2 don't sell -- if you hold back an order, you | |
| 3 don't sell a suspicious order or ship a | |
| 4 suspicious order, that order can't be | |
| 5 diverted, right? | |
| 6 A. That particular one from us | |
| 7 can't. | |
| 8 Q. That's right. | |
| 9 And that's the reason -- I | |
| 10 think you agreed with me earlier, that's the | |
| 11 reason you report and -- you monitor and | |
| 12 report suspicious orders. Because if you | |
| 13 determine there's a suspicious order, you | |
| 14 don't ship or you're not -- or let me | |
| 15 rephrase that -- you're not supposed to ship | |
| 16 it, right? | |
| 17 MS. HENN: Objection to form. | |
| 18 THE WITNESS: Can you ask the | |
| 19 question again? | |
| 20 QUESTIONS BY MR. RAFFERTY: | |
| 21 Q. Yeah. Yeah. | |
| 22 That's the reason, you agreed | |
| 23 with me earlier, that monitoring for | |
| 24 suspicious orders and reporting suspicious | |
| 25 orders is not just a check-the-box type of | |
| 1 issue, right? It's not -- it plays an | |
| 2 important role in preventing diversion? | |
| 3 MS. HENN: Objection to form. | |
| 4 THE WITNESS: It does. | |
| 5 QUESTIONS BY MR. RAFFERTY: | |
| 6 Q. Okay. | |
| 7 A. Or it can and -- it can. | |
| 8 Q. Right. | |
| 9 Because according to the | |
| 10 regulations, if you are effectively complying | |
| 11 with the regulations, once you determine | |
| 12 there's a suspicious order, you, as the | |
| 13 distributor, McKesson, is not supposed to | |
| 14 ship that order, right? | |
| 15 MS. HENN: Objection to form. | |
| 16 THE WITNESS: It depends. I | |
| 17 know there's other -- there's been | |
| 18 different -- there's different | |
| 19 programs, but... | |
| 20 QUESTIONS BY MR. RAFFERTY: | |
| 21 Q. It depends. Once you | |
| 22 determine -- once McKesson determines an | |
| 23 order is a suspicious order, McKesson is not | |
| 24 supposed to ship that order, true? | |
| 25 A. We don't ship that order, | |

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| <p style="text-align: right;">Page 78</p> <p>1 right.</p> <p>2 Q. Well, you actually have faced</p> <p>3 several investigations and paid massive fines</p> <p>4 because you did ship suspicious orders,</p> <p>5 haven't you?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 THE WITNESS: In the context of</p> <p>8 our program today, we have a system</p> <p>9 that blocks those orders.</p> <p>10 QUESTIONS BY MR. RAFFERTY:</p> <p>11 Q. Okay. My question was: You</p> <p>12 have faced investigations and paid fines</p> <p>13 based on the fact that McKesson shipped</p> <p>14 suspicious orders, correct?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 THE WITNESS: Those were the</p> <p>17 allegations in those --</p> <p>18 QUESTIONS BY MR. RAFFERTY:</p> <p>19 Q. And you accepted --</p> <p>20 A. -- and we accepted</p> <p>21 responsibility on the last one.</p> <p>22 Q. And paid \$150 million fine as a</p> <p>23 result, right?</p> <p>24 A. We did.</p> <p>25 Q. Okay. But getting back to my</p> | <p style="text-align: right;">Page 80</p> <p>1 to the ability to prevent diversion of</p> <p>2 narcotics in America, you have great</p> <p>3 responsibility, right?</p> <p>4 MS. HENN: Objection to form.</p> <p>5 THE WITNESS: Again, I don't</p> <p>6 know if I'd phrase it personally as</p> <p>7 great power, but we have an important</p> <p>8 responsibility, absolutely.</p> <p>9 QUESTIONS BY MR. RAFFERTY:</p> <p>10 Q. Okay. And when you do comply,</p> <p>11 if there is effective compliance with the</p> <p>12 Controlled Substances Act and your</p> <p>13 responsibilities under that Controlled</p> <p>14 Substances Act, it works and diversion</p> <p>15 decreases, right?</p> <p>16 MS. HENN: Objection to form.</p> <p>17 THE WITNESS: It can decrease.</p> <p>18 I mean, prevention is not a --</p> <p>19 necessarily a measurable thing all the</p> <p>20 time, but that's the idea.</p> <p>21 QUESTIONS BY MR. RAFFERTY:</p> <p>22 Q. That's the idea, that's the</p> <p>23 plan, right?</p> <p>24 A. In general, that's the concept.</p> <p>25 Q. That's why the Controlled</p> |
| <p style="text-align: right;">Page 79</p> <p>1 question, you are not supposed -- under the</p> <p>2 law, McKesson, once they determine an order</p> <p>3 is suspicious, is not supposed to ship that</p> <p>4 order, correct?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 THE WITNESS: Correct. You're</p> <p>7 not -- you shouldn't ship suspicious</p> <p>8 orders.</p> <p>9 QUESTIONS BY MR. RAFFERTY:</p> <p>10 Q. Right.</p> <p>11 And if you effectively comply</p> <p>12 and you don't ship a suspicious order, then</p> <p>13 that order can't been diverted into illegal</p> <p>14 use, true?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 THE WITNESS: Correct.</p> <p>17 QUESTIONS BY MR. RAFFERTY:</p> <p>18 Q. Okay. Turning to the next</p> <p>19 page, "With great power comes great</p> <p>20 responsibility."</p> <p>21 Do you see that?</p> <p>22 A. I see that.</p> <p>23 Q. And you agree with that, right?</p> <p>24 As a result of being a</p> <p>25 distributor and having great power in regards</p> | <p style="text-align: right;">Page 81</p> <p>1 Substances Act is in place, right?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 THE WITNESS: It's one of the</p> <p>4 reasons why it's in place, sure.</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. All right. Turning to page 46,</p> <p>7 "What else impacts diversion?"</p> <p>8 Sorry, I'll let you get there.</p> <p>9 Do you see that, "What else</p> <p>10 impacts diversion?"</p> <p>11 A. I do.</p> <p>12 Q. We're still in your</p> <p>13 colleague's, Mr. Boggs', presentation, right?</p> <p>14 A. We are.</p> <p>15 Q. Okay. And for the record,</p> <p>16 Mr. Boggs, you know, was formerly with the</p> <p>17 DEA before being hired by McKesson, right?</p> <p>18 A. I'm aware of that.</p> <p>19 Q. And involved in diversions with</p> <p>20 the FDA {sic} or for the FDA, right?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 QUESTIONS BY MR. RAFFERTY:</p> <p>23 Q. Diversion compliance?</p> <p>24 A. For the DEA, not the FDA.</p> <p>25 Q. For the -- did I say FDA?</p> |

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| 1 A. You did. 2 Q. For -- 3 A. I want to be accurate. 4 Q. He was formerly -- no, I 5 appreciate that. Thank you. 6 A. Yeah. 7 Q. Let me rephrase it so the 8 record is clear. 9 Mr. Boggs was formerly involved 10 in the diversion compliance with the DEA, 11 correct? 12 A. Yes, he was part of the Office 13 of Diversion Control. 14 Q. Let's see what Mr. Boggs says 15 here about "what else impacts diversion." 16 "Compliance," and there's one, 17 two, three, four -- seven exclamation points 18 after that. 19 Do you see that, "compliance"? 20 A. I do. 21 Q. That's what -- what he's 22 talking about there is compliance with the 23 Controlled Substances Act, true? 24 MS. HENN: Objection to form. 25 THE WITNESS: I can make some | 1 Q. And the final one, will you 2 read that? 3 A. "Without sustained sources of 4 supply, major diversion schemes wither away." 5 Q. "Without sustained sources of 6 supply," what he's talking about there is 7 supply of narcotics, right? 8 MS. HENN: Objection to form. 9 THE WITNESS: Correct. 10 QUESTIONS BY MR. RAFFERTY: 11 Q. Okay. "Major diversion schemes 12 wither away." That means diversion 13 decreases, right? 14 A. That's the idea. 15 Q. That's the idea. 16 So if there's effective 17 compliance, diversion decreases, true? 18 MS. HENN: Objection to form. 19 THE WITNESS: Again, I think 20 that's the idea. I didn't present it. 21 I don't know what his speaking points 22 were, but that's a general idea. 23 QUESTIONS BY MR. RAFFERTY: 24 Q. Pretty common sense, isn't it? 25 Even for somebody not in -- not senior |
| Page 83 | Page 85 |
| 1 assumptions, yeah. I wasn't -- yeah. 2 QUESTIONS BY MR. RAFFERTY: 3 Q. Well, it's not tough, is it? I 4 mean -- 5 A. I wasn't there. I didn't 6 prepare it, but I believe that's probably the 7 case, yeah. 8 Q. Okay. All right. 9 "The checks and balances 10 created by the controlled" -- what's that 11 word, those words? -- "Controlled Substances 12 Act work," right? 13 MS. HENN: Objection to form. 14 QUESTIONS BY MR. RAFFERTY: 15 Q. Why don't you read the -- we'll 16 just strike that. 17 Read that first bullet point 18 under "Compliance" with the seven exclamation 19 points. 20 A. "The checks and balances 21 created by the Controlled Substances Act 22 work." 23 Q. The next bullet point? 24 A. "Registrants are a 25 force-multiplier." | 1 regulatory affairs director for a distributor 2 of narcotics, it's pretty straight common 3 sense, right? 4 A. It's fairly common sense, 5 right. 6 Q. Okay. And the same would be 7 also fairly common sense, and that is if you 8 don't effectively comply with the Controlled 9 Substances Act, then the opposite happens and 10 diversion increases, correct? 11 MS. HENN: Objection to form. 12 THE WITNESS: Diversion can 13 increase. I don't know if there's an 14 exact, you know -- 15 QUESTIONS BY MR. RAFFERTY: 16 Q. Well, once again, it -- 17 A. It's an option. I understand 18 what you're saying. 19 Q. And it's true, right? 20 MS. HENN: Objection to form. 21 THE WITNESS: It can be true, 22 yes. 23 QUESTIONS BY MR. RAFFERTY: 24 Q. Okay. Now, one of the reasons 25 that this has -- that McKesson has great |

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| <p style="text-align: right;">Page 86</p> <p>1 power, as that is phrased by Mr. Boggs, is 2 because as McKesson you service 25,000 3 customers in US pharma for narcotics, 4 correct?</p> <p>5 MS. HENN: Objection to form. 6 THE WITNESS: I don't -- the 7 exact -- if that's the exact right 8 number. That's the ballpark number, 9 yeah.</p> <p>10 (McKesson-Hartle Exhibit 47 11 marked for identification.)</p> <p>12 QUESTIONS BY MR. RAFFERTY:</p> <p>13 Q. All right. Let's take a look 14 at 1.1455. This is a presentation that you 15 gave, and, once again, there is a habit 16 evidently at McKesson of not putting dates on 17 things. We don't have a date on this one, so 18 the metadata according to our records 19 produced by McKesson indicate that this was 20 done in August of 2014. August 20, 2014. 21 A. August 2014. 22 Q. That would have been a few 23 months after you started, right? If you 24 started -- 25 A. Right. I started in May.</p> | <p style="text-align: right;">Page 88</p> <p>1 the relationship to the chain. 2 Q. Okay. So do you know who that 3 person was at this time, RNA VP? 4 A. There are multiple RNA VPs, and 5 this is the presentation that is given at 6 different times to different chains, so I'm 7 not sure which one it would be -- 8 Q. Okay. So whoever -- whoever it 9 is -- 10 A. -- of that chain. 11 Q. -- of that chain at that time? 12 A. Correct. 13 Q. Okay. 14 A. Correct. 15 Q. It goes down and it says, "My 16 name is Nate Hartle." That's you? 17 A. Right. 18 Q. We know that? 19 A. Right. 20 Q. Okay. "And I am senior 21 director of regulatory affairs for McKesson 22 dedicated to our retail national accounts." 23 Do you see that? 24 A. Right. 25 Q. "My background is in retail in</p> |
| <p style="text-align: right;">Page 87</p> <p>1 Q. And we will mark this as 2 Exhibit 47, I believe.</p> <p>3 MR. RAFFERTY: Okay. For the 4 record, this is P1.1455, which is now 5 Exhibit 47 to the deposition.</p> <p>6 QUESTIONS BY MR. RAFFERTY:</p> <p>7 Q. Do you recognize this 8 particular document, sir?</p> <p>9 A. I do. These are -- yeah, these 10 are notes as I prepare to give presentations.</p> <p>11 Q. Right. These are your speaker 12 notes, for example, for a corresponding 13 PowerPoint slide, right?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. Because it says 16 "slide 1" there up at the top, right?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. RNA VP. That's you, 19 right?</p> <p>20 A. No.</p> <p>21 Q. Okay. Who is that?</p> <p>22 A. So within that retail national 23 accounts or chain segment, each chain has 24 a -- there's vice presidents that manage the 25 relationships with the chains. So they own</p> | <p style="text-align: right;">Page 89</p> <p>1 the assets protection and corporate security 2 world, and I have experience and knowledge in 3 the diversion space, including leading 4 efforts focused on both internal theft and 5 the CSMP on the dispensing side."</p> <p>6 Do you see that?</p> <p>7 A. I see that.</p> <p>8 Q. You were with Target before you 9 started at McKesson, right?</p> <p>10 A. I was.</p> <p>11 Q. Okay. Were you in -- did you 12 have a role or were you in charge of the 13 diversion of narcotics compliant -- the 14 compliance with the regulations of the 15 diversion of narcotics while at Target?</p> <p>16 A. While at Target, there was 17 multiple functions involved in pharmacy. I 18 had a very specific team that was focused on, 19 you know, monitoring diversion, monitoring 20 dispensing across the stores. So I played a 21 role.</p> <p>22 We investigated internal theft.</p> <p>23 We monitored -- we worked internally to 24 create training and education and awareness.</p> <p>25 So I played a role along with other</p> |

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| <p>1 components within Target.</p> <p>2 Q. Okay.</p> <p>3 MR. RAFFERTY: Let's go to .5</p> <p>4 of this presentation, Corey.</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. So this is being given to the</p> <p>7 retail chains, right?</p> <p>8 A. So these presentations are</p> <p>9 given to -- were given initially to retail</p> <p>10 chains in -- when I first joined the team.</p> <p>11 And I will -- to add some context to this, as</p> <p>12 I prepared, these were not read word for</p> <p>13 word. This is me preparing and using as a</p> <p>14 guideline.</p> <p>15 Q. I understand.</p> <p>16 A. So this is not a presentation;</p> <p>17 it's just speaking points. But I -- so I</p> <p>18 wanted you to understand.</p> <p>19 Q. I wasn't suggesting it was.</p> <p>20 A. Right.</p> <p>21 Q. But this is something that you</p> <p>22 wrote, right?</p> <p>23 A. It is.</p> <p>24 Q. Okay. If you turn to page 5,</p> <p>25 "Have any of you or your teams had a chance</p> | <p>1 MS. HENN: Objection to form.</p> <p>2 THE WITNESS: We do.</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. Okay. "With more than 25,000</p> <p>5 customers, we have insight into trends so we</p> <p>6 want to share that with you through updates</p> <p>7 and interactions. We would also like to</p> <p>8 learn from you, so any trends or intel you</p> <p>9 may have would be valuable to us."</p> <p>10 Do you see that?</p> <p>11 A. I see that.</p> <p>12 Q. Okay. So 25,000 -- at least</p> <p>13 with the 25,000 customers, that's the number</p> <p>14 you used in your presentation, right?</p> <p>15 A. I did --</p> <p>16 Q. Okay.</p> <p>17 A. -- use that initially when I</p> <p>18 came on board.</p> <p>19 Q. And you wouldn't put it in</p> <p>20 there if you didn't think it was accurate,</p> <p>21 right?</p> <p>22 A. Yeah, I can't speak to where I</p> <p>23 pulled that from internally with McKesson,</p> <p>24 but...</p> <p>25 Q. So one of the other reasons</p> |
| <p>1 to attend any of the DEA sessions or heard</p> <p>2 Joe Rannazzisi speak?"</p> <p>3 Do you see that?</p> <p>4 A. I do.</p> <p>5 Q. Mr. Rannazzisi, he's with the</p> <p>6 DEA, right?</p> <p>7 A. He was.</p> <p>8 Q. Was.</p> <p>9 And he's the one that actually</p> <p>10 wrote those letters back in 2006 and 2007</p> <p>11 reiterating what your responsibilities are</p> <p>12 under the Controlled Substances Act, true?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: He wrote those.</p> <p>15 QUESTIONS BY MR. RAFFERTY:</p> <p>16 Q. Okay.</p> <p>17 A. They came from him, sure.</p> <p>18 Q. Okay. And it says here,</p> <p>19 "Again, our intent is to share our intel with</p> <p>20 you because we have a unique national view."</p> <p>21 You would agree with that,</p> <p>22 right? As a distributor, a national</p> <p>23 distributor, you have a unique national view</p> <p>24 as it comes to narcotic distribution in the</p> <p>25 United States?</p> | <p>1 you've got power -- so you've got 25,000</p> <p>2 customers. One of the other reasons you have</p> <p>3 great power is because one out of every three</p> <p>4 pills, prescription pills, taken in the</p> <p>5 United States is delivered to the pharmacy in</p> <p>6 trucks owned by McKesson with the McKesson</p> <p>7 emblem on it, right?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 QUESTIONS BY MR. RAFFERTY:</p> <p>10 Q. One out of every three?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 THE WITNESS: I think that's</p> <p>13 one out of every three prescriptions.</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. Prescriptions.</p> <p>16 A. Not pills. I think --</p> <p>17 Q. Okay. One out of every three</p> <p>18 prescriptions in the United States is</p> <p>19 delivered to the pharmacy by trucks owned by</p> <p>20 McKesson with McKesson logos on it, right?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 THE WITNESS: I don't believe</p> <p>23 that's 100 percent accurate in terms</p> <p>24 of trucks owned by McKesson. We use</p> <p>25 other --</p> |

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| <p style="text-align: right;">Page 94</p> <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. McKesson supplies --</p> <p>3 A. It comes from McKesson.</p> <p>4 Q. Sorry, I didn't mean to talk</p> <p>5 over you.</p> <p>6 McKesson supplies one out of</p> <p>7 every three prescriptions taken in the United</p> <p>8 States, correct?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 THE WITNESS: That's what's in</p> <p>11 the company fact sheet.</p> <p>12 QUESTIONS BY MR. RAFFERTY:</p> <p>13 Q. Okay. And you don't have any</p> <p>14 reason to dispute that, right?</p> <p>15 A. I don't.</p> <p>16 Q. And in fact, in the year 2014</p> <p>17 when you started at McKesson, US pharma, the</p> <p>18 division that sells the narcotics throughout</p> <p>19 the country, the division that provides and</p> <p>20 produces one-third of every prescription in</p> <p>21 the United States, had \$104 billion in</p> <p>22 revenue, right?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: Sounds about</p> <p>25 right. I don't know the exact</p> | <p style="text-align: right;">Page 96</p> <p>1 prescriptions being dispensed, that gives you</p> <p>2 great power?</p> <p>3 MS. HENN: Objection to form.</p> <p>4 THE WITNESS: We don't have</p> <p>5 control of what's dispensed. We don't</p> <p>6 dispense anything.</p> <p>7 QUESTIONS BY MR. RAFFERTY:</p> <p>8 Q. Well, actually you do, don't</p> <p>9 you, because if you --</p> <p>10 MS. HENN: Just a note to try</p> <p>11 not to talk over each other, but go</p> <p>12 ahead with your question.</p> <p>13 QUESTIONS BY MR. RAFFERTY:</p> <p>14 Q. I'm sorry, you want to finish?</p> <p>15 A. And we -- pharmacies dispense.</p> <p>16 We distribute to those pharmacies, right.</p> <p>17 Q. Right.</p> <p>18 And if you don't dispense or if</p> <p>19 you don't -- maybe we're getting hung up on</p> <p>20 the word "dispense."</p> <p>21 If you don't ship an order,</p> <p>22 then that order -- that narcotic order can't</p> <p>23 be diverted, right?</p> <p>24 MS. HENN: Objection to form.</p> <p>25</p> |
| <p style="text-align: right;">Page 95</p> <p>1 numbers.</p> <p>2 QUESTIONS BY MR. RAFFERTY:</p> <p>3 Q. Okay. So if 25,000 customers</p> <p>4 providing -- or supplying one out of every</p> <p>5 three prescriptions in the United States, and</p> <p>6 making \$104 billion in revenue per year, that</p> <p>7 gives McKesson great power in its ability, if</p> <p>8 it chose to do so, to prevent diversion of</p> <p>9 narcotics in the United States.</p> <p>10 You would agree with that,</p> <p>11 right?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 THE WITNESS: I'd agree that as</p> <p>14 a large distributor we have absolutely</p> <p>15 great responsibility based on our</p> <p>16 scale --</p> <p>17 QUESTIONS BY MR. RAFFERTY:</p> <p>18 Q. Yeah, the responsibility --</p> <p>19 A. -- and the number of customers.</p> <p>20 Q. I'm sorry.</p> <p>21 A. Based on the number of our</p> <p>22 customers.</p> <p>23 Q. Okay. And your asset -- and</p> <p>24 your financial ability, right, and the</p> <p>25 control you have over the number of</p> | <p style="text-align: right;">Page 97</p> <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. So you do have the ability to</p> <p>3 control that?</p> <p>4 MS. HENN: Objection to form.</p> <p>5 THE WITNESS: Pharmacies get</p> <p>6 products from a variety of</p> <p>7 distributors, so they may not be able</p> <p>8 to dispense the specific item from us.</p> <p>9 It does not mean they're not receiving</p> <p>10 it or could receive it from somewhere</p> <p>11 else.</p> <p>12 QUESTIONS BY MR. RAFFERTY:</p> <p>13 Q. So we might as well fill the</p> <p>14 suspicious order because somebody else will;</p> <p>15 is that McKesson's motto?</p> <p>16 MS. HENN: Objection to form.</p> <p>17 THE WITNESS: Not at all.</p> <p>18 QUESTIONS BY MR. RAFFERTY:</p> <p>19 Q. Okay.</p> <p>20 A. Just clarifying that we don't</p> <p>21 dispense.</p> <p>22 Q. But you supply, don't you?</p> <p>23 A. Of course. Absolutely.</p> <p>24 Q. Okay.</p> <p>25 MS. HENN: Counsel, we've been</p> |

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| <p>1 going over an hour. Would this be a 2 good time for a quick break? We can 3 make it five minutes.</p> <p>4 MR. RAFFERTY: I'll tell you, 5 can I just finish this one document 6 and then we can take ten?</p> <p>7 THE WITNESS: That's fine. 8 That's okay.</p> <p>9 QUESTIONS BY MR. RAFFERTY:</p> <p>10 Q. You would agree with me, 11 wouldn't you, Mr. Hartle, that when it comes 12 to compliance under the Controlled Substances 13 Act -- under -- under the Controlled 14 Substances Act, McKesson is responsible for 15 designing and operating a system to 16 determine -- or to suspect -- or to identify 17 suspicious orders, right?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 THE WITNESS: That's the 20 regulation, absolutely.</p> <p>21 QUESTIONS BY MR. RAFFERTY:</p> <p>22 Q. Okay. And -- but it is 23 McKesson who decides ultimately whether an 24 order is suspicious, right?</p> <p>25 A. Correct.</p> | <p>1 again. There's a first time for 2 everything.</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. Okay. Now, getting back to the 5 questions.</p> <p>6 Mr. Hartle, so we talked 7 earlier about the roles and responsibilities 8 that McKesson has as a distributor of 9 narcotics under the Controlled Substances 10 Act.</p> <p>11 You would agree with me that in 12 2006 Mr. Rannazzisi, who we just talked about 13 a few minutes ago, on behalf of the United 14 States Department of Justice and the Drug 15 Enforcement Administration, sent a letter to 16 all distributors and registrants reiterating 17 the responsibilities and duties under the 18 Controlled Substance Act, right?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: Yes, he did send 21 that.</p> <p>22 (McKesson-Hartle Exhibit 49 23 marked for identification.)</p> <p>24 QUESTIONS BY MR. RAFFERTY:</p> <p>25 Q. Okay. All right. If we could</p> |
| <p style="text-align: center;">Page 99</p> <p>1 Q. And, therefore, whether or not 2 to ship that order, right?</p> <p>3 A. Correct.</p> <p>4 MR. RAFFERTY: Okay. We can 5 take a break now.</p> <p>6 MS. HENN: Thank you.</p> <p>7 VIDEOGRAPHER: The time is 8 10:16 a.m. We're going off the 9 record.</p> <p>10 (Off the record at 10:16 a.m.)</p> <p>11 VIDEOGRAPHER: The time is 12 10:29 a.m., and we're back on the 13 record.</p> <p>14 MR. RAFFERTY: All right. Just 15 a little housekeeping here.</p> <p>16 In a stunning twist of fate, I 17 was actually wrong and Paul Farrell 18 was right. The date on the Boggs' 19 presentation, which is Exhibit 46 to 20 the deposition, is September 30, 2013.</p> <p>21 MR. FARRELL: I'm sorry, Troy, 22 I missed that.</p> <p>23 MS. HENN: Thank you, sir.</p> <p>24 THE WITNESS: Thank you.</p> <p>25 MR. RAFFERTY: It won't happen</p> | <p style="text-align: center;">Page 101</p> <p>1 1.1464, which will be exhibit -- excuse me -- 2 which will be Exhibit 49 to the deposition.</p> <p>3 Do you recognize this as being 4 the letter that was sent to McKesson?</p> <p>5 A. I do.</p> <p>6 Q. Okay. And in the letter it 7 specifically says at the top, "September 27, 8 2006."</p> <p>9 Do you see that? Oh, no, 10 it's 1.1464.</p> <p>11 All right. Looking at this 12 particular letter, once again, it's dated 13 September 27, 2006, right?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. And he says here, "This 16 letter is being sent to every commercial 17 entity in the United States registered with 18 the DEA to distribute controlled substances."</p> <p>19 Did I read that right?</p> <p>20 A. Yes.</p> <p>21 Q. "The purpose of this letter is 22 to reiterate the responsibilities of 23 controlled substance distributors in view of 24 the prescription drug abuse problem our 25 nation currently faces. "</p> |

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| <p>1 Did I read that right?</p> <p>2 A. You did.</p> <p>3 Q. And he specifically uses the</p> <p>4 word "reiterate" there, true?</p> <p>5 A. He does.</p> <p>6 Q. Okay. These aren't new</p> <p>7 responsibilities; he's reiterating what the</p> <p>8 responsibilities are, correct?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 THE WITNESS: Correct.</p> <p>11 QUESTIONS BY MR. RAFFERTY:</p> <p>12 Q. Okay. And as you go down, I'm</p> <p>13 not going to go through the entire letter,</p> <p>14 but let's look at the third full paragraph.</p> <p>15 "The CSA was designed by Congress to combat</p> <p>16 diversion by providing for a closed system of</p> <p>17 drug distribution in which all legitimate</p> <p>18 handlers of controlled substances must obtain</p> <p>19 a DEA registration."</p> <p>20 That's the closed system we</p> <p>21 talked about earlier, right?</p> <p>22 A. It is.</p> <p>23 Q. "As a condition of maintaining</p> <p>24 such registration, must take reasonable steps</p> <p>25 to ensure that their registration is not</p> | <p>1 MS. HENN: Objection to form.</p> <p>2 THE WITNESS: I do.</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. Okay. So distributors must be</p> <p>5 vigilant. By that, you would agree with me</p> <p>6 that distributors must be not only vigilant</p> <p>7 but proactive in trying to prevent the</p> <p>8 diversion of narcotics in the United States,</p> <p>9 true?</p> <p>10 A. I would use the phrase --</p> <p>11 "proactive" is part of it, too, sure.</p> <p>12 Q. Proactive.</p> <p>13 A. Sure.</p> <p>14 Q. It's not a passive</p> <p>15 responsibility where you just kind of wait</p> <p>16 and see if somebody calls you up and says,</p> <p>17 "Hey, listen, I think I'm going to order way</p> <p>18 too many prescription drugs and divert them."</p> <p>19 I mean, you got to go out and try to find</p> <p>20 them, right?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 QUESTIONS BY MR. RAFFERTY:</p> <p>23 Q. You have to be vigilant and</p> <p>24 proactive?</p> <p>25 A. It should be part of the -- an</p> |
| <p>1 being utilized as a source of diversion."</p> <p>2 Did I read that correctly?</p> <p>3 A. You did.</p> <p>4 Q. Then he says -- he talked</p> <p>5 specifically about distributors.</p> <p>6 "Distributors are, of course, one of the key</p> <p>7 components of the distribution chain. If the</p> <p>8 closed system is to function properly as</p> <p>9 Congress envisioned, distributors must be</p> <p>10 vigilant" --</p> <p>11 Do you see that word?</p> <p>12 A. I do.</p> <p>13 Q. -- "in deciding whether a</p> <p>14 prospective customer can be trusted to</p> <p>15 deliver controlled substances only for lawful</p> <p>16 purposes. This responsibility is critical,</p> <p>17 as Congress has expressly declared that the</p> <p>18 illegal distribution of controlled substances</p> <p>19 has a substantial and detrimental effect on</p> <p>20 the health and general welfare of the</p> <p>21 American people."</p> <p>22 Do you see that?</p> <p>23 A. I do.</p> <p>24 Q. And you agree with all of that,</p> <p>25 true?</p> | <p>1 element of the program.</p> <p>2 Q. Okay. Turning to the second</p> <p>3 page, sir. Okay. Going on to the page 2.</p> <p>4 "The statu" -- I'm sorry, the third full</p> <p>5 paragraph.</p> <p>6 "The statutory factors." Do</p> <p>7 you see that sentence?</p> <p>8 A. I do.</p> <p>9 Q. Okay. Would you read that,</p> <p>10 please?</p> <p>11 A. "The statutory factors DEA must</p> <p>12 consider in deciding whether to revoke a</p> <p>13 distributor's registration are set forth in</p> <p>14 21 USC 823(e)."</p> <p>15 Want to keep going?</p> <p>16 Q. Yeah, just the next sentence.</p> <p>17 A. Okay. "Listed first among</p> <p>18 these factors is the duty of distributors to</p> <p>19 maintain effective controls against</p> <p>20 diversion -- against diversion of controlled</p> <p>21 substances into other than legitimate</p> <p>22 medical, scientific and industrial channels."</p> <p>23 Q. Okay. So maintain effective</p> <p>24 controls, correct?</p> <p>25 A. Correct.</p> |

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| <p>1 Q. The DEA -- the next paragraph 2 says -- lays out that CFR we read about 3 designing and operating a system to disclose 4 suspicious orders.</p> <p>5 You see that?</p> <p>6 A. I do.</p> <p>7 Q. Okay. And then going down to 8 the next one it says, "It bears emphasis that 9 the foregoing reporting requirement is in 10 addition to and not in lieu of the general 11 requirement under 21 USC 823(e) that a 12 distributor maintain effective controls 13 against diversion."</p> <p>14 Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. So it's not just what's listed 17 up there right above it, right?</p> <p>18 A. Right.</p> <p>19 Q. Okay. "Thus, in addition to 20 reporting all suspicious orders, a 21 distributor has a statutory responsibility to 22 exercise due diligence to avoid filling 23 suspicious orders that might be diverted into 24 other than legitimate medical, scientific and 25 industrial channels."</p> | <p>1 that.</p> <p>2 QUESTIONS BY MR. RAFFERTY:</p> <p>3 Q. Just --</p> <p>4 A. Just because you're registered.</p> <p>5 Q. What that means is just because 6 a pharmacy, for example, that you're 7 supplying the narcotics to happens to also be 8 a DEA registrant doesn't mean that you can 9 just say, "Well, they're a DEA registrant, 10 they've got their obligations, we'll just 11 ship it."</p> <p>12 A. Understood.</p> <p>13 Q. You agree?</p> <p>14 A. I do.</p> <p>15 Q. Okay. "Again, to maintain 16 effective controls against diversion as 17 Section 823(e) requires, the distributor 18 should exercise due care in confirming the 19 legitimacy of all orders prior to filling."</p> <p>20 You see that?</p> <p>21 A. I do.</p> <p>22 Q. Okay. And you see going to 23 page 4, that's signed by Joseph T. 24 Rannazzisi, Deputy Assistant Administrator, 25 Office of Diversion Control.</p> |
| <p>1 Did I read that correctly?</p> <p>2 A. You did.</p> <p>3 Q. Okay. So you have to use and 4 exercise due diligence, right? You would 5 agree with that?</p> <p>6 A. Correct, that's what it says in 7 here, yeah.</p> <p>8 Q. Well, and you would agree with 9 it?</p> <p>10 A. Agree with it.</p> <p>11 Q. Okay. "Due diligence to avoid 12 filling suspicious orders," correct?</p> <p>13 Okay. "In a similar vein, 14 given the requirements under 823(e) that a 15 distributor maintain effective controls 16 against diversion, a distributor may not 17 simply rely on the fact that the person 18 placing the suspicious order is a DEA 19 registrant and turn a blind eye to the 20 suspicious circumstances."</p> <p>21 You see that?</p> <p>22 A. I do.</p> <p>23 Q. And you agree with that, right?</p> <p>24 MS. HENN: Objection to form.</p> <p>25 THE WITNESS: I agree with</p> | <p>1 You see that?</p> <p>2 A. I see that.</p> <p>3 Q. Okay. Now, that was in 4 September of 2006.</p> <p>5 Now, in December of 2007, 6 Mr. Rannazzisi sent another letter. You're 7 aware of that, correct?</p> <p>8 A. Correct.</p> <p>9 (McKesson-Hartle Exhibit 50 10 marked for identification.)</p> <p>11 QUESTIONS BY MR. RAFFERTY:</p> <p>12 Q. Okay. And this will be marked 13 as Exhibit 50 to the deposition.</p> <p>14 So here, December 27, 2007.</p> <p>15 Just so happens to be the monitor that I 16 can't see that is there.</p> <p>17 You see the date there, 18 December 27, 2007, sir?</p> <p>19 A. I do.</p> <p>20 Q. Okay. Once again, this one 21 is -- now, this one is specifically addressed 22 to McKesson Corporation.</p> <p>23 Do you see that?</p> <p>24 A. I see that.</p> <p>25 Q. Okay. But even though the</p> |

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| <p>1 other one didn't have an address on it, you 2 acknowledge that McKesson received that 3 letter?</p> <p>4 A. Yes.</p> <p>5 Q. All right. Once again he says, 6 "This letter is being sent to every entity in 7 the United States registered with the DEA to 8 manufacture or distribute controlled 9 substances."</p> <p>10 Do you see that?</p> <p>11 A. I do.</p> <p>12 Q. Okay. Once again he says, "The 13 purpose of this letter is to reiterate the 14 responsibilities of controlled substance 15 manufacturers and distributors to inform DEA 16 of suspicious orders in accordance with 21 17 CFR 1301.74 subsection B.</p> <p>18 Do you see that?</p> <p>19 A. Right. I do.</p> <p>20 Q. Once again he uses that word 21 "reiterate," right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Down to the next 24 paragraph it says, "In addition to and not in 25 lieu of the general requirement under 21 USC</p> | <p>1 approve or otherwise endorse any specific 2 system for reporting suspicious orders." 3 Correct?</p> <p>4 A. Correct.</p> <p>5 Q. Okay. And then going further 6 down it says, "The regulation also" -- this 7 is the third full paragraph, sir, I'm sorry. 8 "The regulation also requires 9 that the registrant inform the local DEA 10 division office of suspicious orders when 11 discovered by the registrant."</p> <p>12 Do you see that?</p> <p>13 A. I see that.</p> <p>14 Q. And you acknowledge that that 15 is a responsibility of the distributor of 16 narcotics in the United States, is to report 17 it when it's discovered, right?</p> <p>18 A. That's in this guidance. 19 That's what he's saying, yeah. It's not the 20 language in the -- in the specific 21 regulation.</p> <p>22 Q. You understand that is a 23 responsibility of distributors?</p> <p>24 A. To report suspicious orders, 25 yes.</p> |
| Page 111 | Page 113 |
| <p>1 823 that manufacturers and distributors 2 maintain effective controls against 3 diversion, DEA require -- regulations require 4 all manufacturers and distributors to report 5 suspicious orders of controlled substances." 6 You agree that you must report 7 to the DEA all suspicious orders, right? 8 MS. HENN: Objection to form. 9 THE WITNESS: That's what's in 10 the language, yes, reporting 11 suspicious orders, yes.</p> <p>12 QUESTIONS BY MR. RAFFERTY: 13 Q. And you agree that that's a 14 responsibility that you have as a 15 distributor?</p> <p>16 A. To report suspicious orders, 17 yes.</p> <p>18 Q. Okay. Then going down, the 19 regulation -- the regulation clearly 20 indicates that "it is the sole responsibility 21 of the registrant to design and operate such 22 a system."</p> <p>23 Did I read that right?</p> <p>24 A. Yes.</p> <p>25 Q. "Accordingly, DEA does not</p> | <p>1 Q. When discovered?</p> <p>2 A. I understand that.</p> <p>3 Q. You agree with that?</p> <p>4 A. I agree with that.</p> <p>5 Q. Okay. "Filing a monthly report 6 of completed transactions does not meet the 7 regulatory requirement to report suspicious 8 orders."</p> <p>9 Do you see that?</p> <p>10 A. I see that.</p> <p>11 Q. "Registrants are reminded that 12 their responsibility does not end merely with 13 the filing of a suspicious order report. 14 Registrants must conduct an independent 15 analysis of suspicious orders prior to 16 completing a sale to determine whether the 17 controlled substances are likely to be 18 diverted from legitimate channels."</p> <p>19 Is that correct?</p> <p>20 A. I see that.</p> <p>21 Q. And you agree with that?</p> <p>22 A. Yes.</p> <p>23 Q. And part of that independent 24 analysis is what was being discussed in 2006 25 as exercising due diligence in that</p> |

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| <p>1 investigation, correct?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 THE WITNESS: Due diligence is</p> <p>4 the way to investigate or gather</p> <p>5 information, yes.</p> <p>6 QUESTIONS BY MR. RAFFERTY:</p> <p>7 Q. "Reporting an order as</p> <p>8 suspicious will not absolve the registrant of</p> <p>9 responsibility if the registrant knew or</p> <p>10 should have known that the controlled</p> <p>11 substances were being diverted."</p> <p>12 Do you see that?</p> <p>13 A. I see that.</p> <p>14 Q. So what he's saying there is</p> <p>15 you must not ship suspicious orders.</p> <p>16 Reporting isn't enough. If you have a</p> <p>17 suspicious order, you must not ship it, true?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 THE WITNESS: Can you say that</p> <p>20 once again?</p> <p>21 QUESTIONS BY MR. RAFFERTY:</p> <p>22 Q. You must not ship an order if</p> <p>23 you determine it to be a suspicious order.</p> <p>24 A. Suspicious order. Correct.</p> <p>25 Q. And then it goes through and</p> | <p>1 distributors."</p> <p>2 So if you have -- you have to</p> <p>3 have more than just an algorithm or a formula</p> <p>4 to detect suspicious orders; that's what he's</p> <p>5 telling you there, right?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 THE WITNESS: Can you ask your</p> <p>8 question again, clarify your question?</p> <p>9 QUESTIONS BY MR. RAFFERTY:</p> <p>10 Q. Yeah.</p> <p>11 You can't simply rely upon an</p> <p>12 algorithm or a formula to determine whether</p> <p>13 an order is a suspicious order; you have to</p> <p>14 have and do more than that. That's what he's</p> <p>15 telling you. That's what the regulations</p> <p>16 call for?</p> <p>17 MS. HENN: Objection to form.</p> <p>18 THE WITNESS: Yeah, there's</p> <p>19 other factors that are involved at</p> <p>20 times that are taken into</p> <p>21 consideration.</p> <p>22 QUESTIONS BY MR. RAFFERTY:</p> <p>23 Q. So you agree with that?</p> <p>24 MS. HENN: Objection to form.</p> <p>25 THE WITNESS: That there's --</p> |
| <p style="text-align: center;">Page 115</p> <p>1 describes again that suspicious orders are</p> <p>2 orders of unusual size, pattern or frequency.</p> <p>3 You see that?</p> <p>4 A. I see that, yeah.</p> <p>5 Q. All right. Then finally</p> <p>6 turning to page 2, "Registrants" -- the top</p> <p>7 paragraph.</p> <p>8 "Registrants that rely on rigid</p> <p>9 formulas to define whether an order is</p> <p>10 suspicious may be failing to detect</p> <p>11 suspicious orders."</p> <p>12 You see that?</p> <p>13 A. I see that.</p> <p>14 Q. "For example, a system that</p> <p>15 identifies orders as suspicious only if the</p> <p>16 total amount of a controlled substance</p> <p>17 ordered during one month exceeds the amount</p> <p>18 ordered the previous month by a certain</p> <p>19 percentage or more is insufficient."</p> <p>20 You see that?</p> <p>21 A. I see that.</p> <p>22 Q. "This system fails to identify</p> <p>23 orders placed by a pharmacy if the pharmacy</p> <p>24 placed unusually large orders from the</p> <p>25 beginning of its relationship with the</p> | <p style="text-align: center;">Page 117</p> <p>1 it's not solely a rigid formula alone,</p> <p>2 agreed.</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. All right. "Also, this system</p> <p>5 would not identify orders as suspicious if</p> <p>6 the order were solely for one highly abused</p> <p>7 controlled substance if the orders never grew</p> <p>8 substantially."</p> <p>9 Do you see that?</p> <p>10 A. I see that.</p> <p>11 Q. "Nevertheless, ordering one</p> <p>12 highly abused controlled substance, and</p> <p>13 little or nothing else, deviates from normal</p> <p>14 pattern of what pharmacies generally order."</p> <p>15 You agree with that?</p> <p>16 MS. HENN: Objection to form.</p> <p>17 THE WITNESS: If you have the</p> <p>18 full context of what the pharmacy is,</p> <p>19 I agree with that.</p> <p>20 QUESTIONS BY MR. RAFFERTY:</p> <p>21 Q. Okay. All right. In</p> <p>22 implementing a -- in designing and operating</p> <p>23 an effective system to detect suspicious</p> <p>24 orders or in performing the due diligence to</p> <p>25 detect a suspicious order, you would agree</p> |

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| <p>1 with me that a distributor of narcotics 2 should err on the side of the public safety 3 and health in making those decisions, 4 correct?</p> <p>5 MS. HENN: Objection to form. 6 THE WITNESS: Can you -- can 7 you restate that or --</p> <p>8 QUESTIONS BY MR. RAFFERTY:</p> <p>9 Q. Yeah.</p> <p>10 In making the decision under, 11 for example, the CSMP in place -- or that 12 began in place in 2008, you would agree with 13 me that a distributor of narcotics such as 14 McKesson should err in making those decisions 15 on the side of the public health and safety 16 in America?</p> <p>17 MS. HENN: Objection to form. 18 THE WITNESS: There's a lot of 19 components that go into a decision 20 like that, and that could be one of 21 them that has -- carries importance, 22 sure. You want to do what's right.</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. Well, but if you're trying to 25 make a judgment call and it could go either</p> | <p>1 MS. HENN: Objection to form. 2 THE WITNESS: That's how it's 3 defined in the program, yes.</p> <p>4 QUESTIONS BY MR. RAFFERTY:</p> <p>5 Q. That's right. 6 And so in making the decision, 7 for example, whether to take an order as -- 8 determine whether an order should go from 9 level 1 to level 2, McKesson and you, as one 10 of the senior directors of regulatory 11 affairs, should err -- if you're going to 12 make an error, you should err on the side of 13 public health and safety?</p> <p>14 MS. HENN: Objection to form. 15 THE WITNESS: I agree. I don't 16 believe that's not top of mind when 17 you're making those decisions, but in 18 theory, yes, you want to do what's -- 19 what's ultimately -- you want to do 20 what's right.</p> <p>21 QUESTIONS BY MR. RAFFERTY:</p> <p>22 Q. Okay. The public health and 23 safety is not at top of mind of McKesson when 24 making those decisions?</p> <p>25 MS. HENN: Objection to form.</p> |
| <p>1 way, you want to err on the side of public 2 health and safety, right?</p> <p>3 MS. HENN: Objection to form. 4 THE WITNESS: Naturally you 5 would as a person in the -- 6 absolutely. But there's many things 7 that go into designing a system, 8 right.</p> <p>9 QUESTIONS BY MR. RAFFERTY:</p> <p>10 Q. Well, I'm not talking about the 11 design of the system. I'm saying, for 12 example, in your -- in your CSMP when you go 13 down a level 1, 2 or 3 investigation and 14 you're making a decision, because after each 15 level, you would agree with me, a decision 16 has to be made as to whether or not the order 17 is -- could be a suspicious order and whether 18 to take it to the next level of 19 investigation, right?</p> <p>20 MS. HENN: Objection to form. 21 THE WITNESS: Correct, that's 22 how a tiered process works.</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. And that's how the McKesson 25 tiered process works, right?</p> | <p>1 THE WITNESS: I'm saying in 2 those certain circumstances it's 3 not -- that's not something that 4 somebody processes and goes through 5 and says, okay, what's -- I think they 6 naturally have the public safety in 7 mind. So I would say they do -- it's 8 the ultimate goal of the program in 9 general.</p> <p>10 QUESTIONS BY MR. RAFFERTY:</p> <p>11 Q. Well, if you decide that an 12 order should not be -- that should be 13 shipped -- or I'm sorry, excuse me. 14 If you decide an order is 15 suspicious and should not be shipped, then 16 McKesson loses that business, right? They 17 lose that sale. If you don't ship it, you 18 can't get paid for it, right?</p> <p>19 A. That's accurate.</p> <p>20 Q. Okay. And in fact, as you're 21 going through and making those decisions, 22 people who are involved in sales, for 23 example, play a part in those decisions in 24 the CSMP, don't they?</p> <p>25 A. They play a part in gathering</p> |
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| <p>1 information and collecting information. 2 Regulatory has the decision-making ability. 3 Q. I understand. 4 But it starts with, for 5 example, the distribution center managers and 6 salespeople, right? 7 MS. HENN: Objection to form. 8 THE WITNESS: Because that's an 9 intake point, yeah.</p> <p>10 QUESTIONS BY MR. RAFFERTY:</p> <p>11 Q. Okay. I want to talk 12 specifically about the CSMP at McKesson, and 13 in particular thresholds. Okay?</p> <p>14 A. (Witness nods head.)</p> <p>15 Q. You're familiar with the 16 concept of the thresholds under the 17 controlled safety monitoring program -- 18 controlled substance monitoring program, 19 correct?</p> <p>20 A. I am.</p> <p>21 Q. Okay. In fact, it's somewhat 22 the foundation. The thresholds are kind of 23 the foundation of the CSMP, true?</p> <p>24 A. They're certainly a core part 25 of the program, foundation of the suspicious</p> | <p>1 example -- McKesson. I keep saying "you." 2 McKesson determines, for example, when a 3 customer comes on board, at what level to set 4 the threshold, right? 5 A. Correct. 6 Q. If you set the threshold too 7 high, then there's no chance that that 8 customer, no matter what they're ordering, 9 whether they're -- if they're ordering a -- 10 or they're -- it's a suspicious order, ever 11 bumps up against a threshold which never 12 triggers the tiered investigation under the 13 CSMP, true?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 THE WITNESS: Could you restate 16 that one for me?</p> <p>17 QUESTIONS BY MR. RAFFERTY:</p> <p>18 Q. Yeah.</p> <p>19 When a customer comes on board, 20 McKesson sets the threshold level for 21 narcotics, correct?</p> <p>22 A. Correct.</p> <p>23 Q. And they do it in a per-dose, 24 per-month basis, right?</p> <p>25 A. Monthly doses, correct.</p> |
| <p>1 order portion of that, yeah. 2 Q. Right. 3 The suspicious order monitoring 4 is performed through thresholds and the 5 setting of thresholds? 6 MS. HENN: Objection to form. 7 THE WITNESS: Correct.</p> <p>8 QUESTIONS BY MR. RAFFERTY:</p> <p>9 Q. Okay. And in fact, in terms of 10 the thresholds, there's two important aspects 11 of thresholds as it pertains to the diversion 12 of narcotics in the United States, and that 13 is, the initial setting of the thresholds and 14 then whether or not there should be a 15 threshold change request granted to increase 16 that threshold, correct?</p> <p>17 A. Correct.</p> <p>18 Q. Both of those areas are subject 19 to manipulation; you would agree with that?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: Manipulation in 22 terms of -- maybe could you better 23 define what you're --</p> <p>24 QUESTIONS BY MR. RAFFERTY:</p> <p>25 Q. Yeah. You determine, for</p> | <p>1 Q. Okay. And the way it works 2 under your CSMP is the level 1, 2 or 3 3 investigation as to whether or not an order 4 is suspicious is triggered when they exceed 5 or there is a threshold excursion, true?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 THE WITNESS: True.</p> <p>8 QUESTIONS BY MR. RAFFERTY:</p> <p>9 Q. So if you set the threshold so 10 high that no matter how much a pharmacy 11 orders, even if they ordinarily order 8,000 a 12 month and then they come in and order 12,000 13 one month, if you set the threshold at 14 13,000, then they're never going to bump up 15 against that. You're never going to do a 16 level 1, 2 or 3 investigation to determine if 17 an order is suspicious, right?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 THE WITNESS: I wouldn't say 20 never. I'd say they may; in 21 situations they may not. There's 22 other ways in which we look at 23 customers that may not be hitting -- 24 hitting the thresholds.</p> |
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| <p style="text-align: right;">Page 126</p> <p>1 QUESTIONS BY MR. RAFFERTY: 2 Q. The system is designed around 3 the thresholds, correct? 4 A. That -- 5 MS. HENN: Objection to form. 6 Go ahead. 7 THE WITNESS: That piece of the 8 system -- the system's -- order piece 9 of the system is designed around that.</p> <p>10 QUESTIONS BY MR. RAFFERTY: 11 Q. Right. 12 A. I'm just saying that there's 13 other components to the program whereas if a 14 customer did not hit a threshold, that does 15 not mean we're not using other data points to 16 look at them and review and maintain 17 effective controls against diversion. 18 Q. How many times have you 19 initiated a level 1 investigation when a 20 customer had not reached their threshold? 21 MS. HENN: Objection to form. 22 QUESTIONS BY MR. RAFFERTY: 23 Q. And I'd like examples. 24 MS. HENN: Objection to form. 25 THE WITNESS: I wasn't around</p> | <p style="text-align: right;">Page 128</p> <p>1 QUESTIONS BY MR. RAFFERTY: 2 Q. Okay. Now, the other issue is 3 once you set a threshold, when a customer 4 orders in excess of that threshold, you have 5 a system in place, McKesson has a system in 6 place, where you can change that threshold to 7 accommodate the excessive order, correct? 8 MS. HENN: Objection to form. 9 THE WITNESS: Can you restate 10 that again? I want to make sure -- 11 we -- we can -- we have a system to 12 adjust thresholds. 13 QUESTIONS BY MR. RAFFERTY: 14 Q. Yes. 15 So if a customer has a 16 threshold at 8,000 per month -- narcotics per 17 month, and they order and it goes -- and that 18 puts them at 9,000 doses per month, they can 19 initiate or you can initiate a threshold 20 change request and increase that either 21 temporarily or permanently, correct? 22 MS. HENN: Objection to form. 23 THE WITNESS: In that scenario, 24 if a customer orders -- their 25 threshold's 8,000, they order 9,000,</p> |
| <p style="text-align: right;">Page 127</p> <p>1 during the level 1, really the 2 tiered -- the core of the tiered 3 approach, so --</p> <p>4 QUESTIONS BY MR. RAFFERTY: 5 Q. So you can't give me any? 6 A. I don't have any specific 7 examples. 8 Q. Okay. So what you were saying 9 there was hypothetical, agreed? 10 MS. HENN: Objection to form. 11 THE WITNESS: Hypothetical. I 12 mean -- yeah, there's different ways 13 to review customers, too, that are 14 used as part of our program, is what 15 I'm saying.</p> <p>16 QUESTIONS BY MR. RAFFERTY: 17 Q. Right. 18 But you also agree that your -- 19 your suspicious order monitoring regulatory 20 responsibility is done through the setting of 21 thresholds and whether or not customers 22 exceed those thresholds?</p> <p>23 MS. HENN: Objection to form. 24 THE WITNESS: Yes.</p> | <p style="text-align: right;">Page 129</p> <p>1 they're not getting 9,000, just to be 2 clear.</p> <p>3 QUESTIONS BY MR. RAFFERTY: 4 Q. Well, they're not getting 9,000 5 right now.</p> <p>6 MS. HENN: Were you done with 7 your answer?</p> <p>8 THE WITNESS: Not yet. 9 So they're not getting the 10 9,000. So it's true, a customer can 11 initiate. And once they've been 12 blocked, if they feel like they need 13 more, that they can request that. 14 There is a process.</p> <p>15 QUESTIONS BY MR. RAFFERTY: 16 Q. Right. 17 Or, quite frankly, the 18 salesperson or the distribution center can 19 initiate it, correct? Can initiate a TCR, a 20 threshold change request?</p> <p>21 MS. HENN: Objection to form. 22 THE WITNESS: Can have -- have 23 conversations with the pharmacy about 24 whether they need more or not or if 25 they need to submit one.</p> |

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| <p>¹ QUESTIONS BY MR. RAFFERTY:</p> <p>² Q. Right.</p> <p>³ So getting back, so what can</p> <p>⁴ happen is -- first of all, we talked about</p> <p>⁵ the setting of the thresholds, number one,</p> <p>⁶ but number two, even after they're set, they</p> <p>⁷ can be increased on a temporary or permanent</p> <p>⁸ basis based on the order of the customer,</p> <p>⁹ true?</p> <p>¹⁰ MS. HENN: Objection to form.</p> <p>¹¹ THE WITNESS: Based on the</p> <p>¹² request and the facts and</p> <p>¹³ circumstances around that, yes --</p> <p>¹⁴ QUESTIONS BY MR. RAFFERTY:</p> <p>¹⁵ Q. Okay.</p> <p>¹⁶ A. -- thresholds can be increased</p> <p>¹⁷ for many different reasons.</p> <p>¹⁸ Q. All right. So we're going to</p> <p>¹⁹ talk a little bit about how you go through</p> <p>²⁰ that.</p> <p>²¹ So if we could, let's look at</p> <p>²² 1.345.</p> <p>²³ How long has the -- that CSMP</p> <p>²⁴ was in place from 2008 until when?</p> <p>²⁵ MS. HENN: Objection to form.</p> | <p>¹ manual -- operations manual for pharma</p> <p>² distribution, controlled substance monitoring</p> <p>³ program.</p> <p>⁴ You see that?</p> <p>⁵ A. Yep.</p> <p>⁶ Q. All right. And if you go down,</p> <p>⁷ it says, "The purpose of this process is to</p> <p>⁸ proactively review the customer orders and</p> <p>⁹ purchases for all controlled substances."</p> <p>¹⁰ Do you see that?</p> <p>¹¹ A. I see that.</p> <p>¹² Q. "In order to detect and prevent</p> <p>¹³ diversion."</p> <p>¹⁴ That's the purpose of this,</p> <p>¹⁵ right, to detect and prevent diversion?</p> <p>¹⁶ A. Correct.</p> <p>¹⁷ Q. "Set and maintain customer</p> <p>¹⁸ thresholds for all controlled substances."</p> <p>¹⁹ Do you see that?</p> <p>²⁰ A. I see that.</p> <p>²¹ Q. Then it goes down and it says,</p> <p>²² "Also, the DEA expects McKesson to, quote,</p> <p>²³ know their customer, unquote."</p> <p>²⁴ Do you see that?</p> <p>²⁵ A. I see that.</p> |
| Page 131 | Page 133 |
| <p>¹ QUESTIONS BY MR. RAFFERTY:</p> <p>² Q. The one that was implemented in</p> <p>³ 2008 was in effect until when?</p> <p>⁴ A. 2014 when we released the --</p> <p>⁵ the ISMC manual. I believe that's the...</p> <p>⁶ (McKesson-Hartle Exhibit 51</p> <p>⁷ marked for identification.)</p> <p>⁸ MR. RAFFERTY: This is -- I'm</p> <p>⁹ handing counsel P1.345, which is</p> <p>¹⁰ Exhibit 51 to the deposition.</p> <p>¹¹ QUESTIONS BY MR. RAFFERTY:</p> <p>¹² Q. I'm showing you what is the</p> <p>¹³ March 21, 2013 CSMP.</p> <p>¹⁴ You see that?</p> <p>¹⁵ A. I do.</p> <p>¹⁶ Q. This is the CSMP that was put</p> <p>¹⁷ in place after the 2008 settlement and fine</p> <p>¹⁸ of 13.25 million, correct?</p> <p>¹⁹ MS. HENN: Objection to form.</p> <p>²⁰ THE WITNESS: That's when it</p> <p>²¹ was put into place after that,</p> <p>²² correct.</p> <p>²³ QUESTIONS BY MR. RAFFERTY:</p> <p>²⁴ Q. Okay. And if we could, let's</p> <p>²⁵ look at the first page, McKesson's operating</p> | <p>¹ Q. Okay. And you agree with that,</p> <p>² that DEA expects McKesson to know their</p> <p>³ customer who they're selling the narcotics</p> <p>⁴ to, right?</p> <p>⁵ A. I agree.</p> <p>⁶ Q. If you would, let's go to</p> <p>⁷ page 8, .8.</p> <p>⁸ All right. So actually go to</p> <p>⁹ .7 first, I'm sorry, the bottom part of .7,</p> <p>¹⁰ "threshold review."</p> <p>¹¹ Do you see that?</p> <p>¹² A. I do.</p> <p>¹³ Q. And then it says, "Regulatory</p> <p>¹⁴ department will review/assess customer</p> <p>¹⁵ thresholds during the month. Additionally,</p> <p>¹⁶ customers that approach a predetermined</p> <p>¹⁷ percentage of threshold maximum or exceed</p> <p>¹⁸ maximums will receive messaging as shown</p> <p>¹⁹ below."</p> <p>²⁰ And then turn the page.</p> <p>²¹ "Threshold warning: Invoice and delivery doc</p> <p>²² only."</p> <p>²³ So that means on their invoice,</p> <p>²⁴ they receive an invoice that says</p> <p>²⁵ "approaching monthly regulatory purchase</p> |

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| <p>1 limit," right?</p> <p>2 A. Correct.</p> <p>3 Q. So you notify -- so as a</p> <p>4 customer gets -- now, the customer doesn't</p> <p>5 know what their -- or not supposed to know</p> <p>6 what their threshold is, right?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 THE WITNESS: We don't share it</p> <p>9 with them.</p> <p>10 QUESTIONS BY MR. RAFFERTY:</p> <p>11 Q. You don't share it with them.</p> <p>12 There's a reason why you don't</p> <p>13 share it with them, right?</p> <p>14 A. Sure.</p> <p>15 Q. And that is so that they can't</p> <p>16 try to manipulate a way around it, right, and</p> <p>17 get drugs from other suppliers or other</p> <p>18 distributors or something like that, right --</p> <p>19 MS. HENN: Objection to form.</p> <p>20 QUESTIONS BY MR. RAFFERTY:</p> <p>21 Q. -- as they approach it, so as</p> <p>22 not to be detected?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: It's one of the</p> <p>25 reasons, sure.</p> | <p>Page 134</p> <p>1 Q. All right. So at that point a</p> <p>2 pharmacy, for example, could certainly</p> <p>3 estimate what their threshold level is,</p> <p>4 right? They know -- they could go back and</p> <p>5 see how much they've purchased and determine</p> <p>6 how much -- what their threshold is, right?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 THE WITNESS: Theoretically.</p> <p>9 QUESTIONS BY MR. RAFFERTY:</p> <p>10 Q. Okay.</p> <p>11 A. They can convert things to</p> <p>12 doses, convert things to base codes. It's</p> <p>13 not just a report they run.</p> <p>14 Q. All right. "Threshold warning,</p> <p>15 Section 2.1. When a customer that has</p> <p>16 reached the threshold warning has been</p> <p>17 detected, the director of regulatory affairs</p> <p>18 will notify DC management and sales."</p> <p>19 Do you see that?</p> <p>20 A. I see that.</p> <p>21 Q. Now, you would agree with me</p> <p>22 that sales shouldn't be playing any part in</p> <p>23 regulatory decisions, right?</p> <p>24 MS. HENN: Objection to form.</p> <p>25 THE WITNESS: They don't play</p> |
| <p>Page 135</p> <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. Okay. Yet, when you start to</p> <p>3 reach a percentage -- and what percentage is</p> <p>4 that, Mr. Hartle?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 QUESTIONS BY MR. RAFFERTY:</p> <p>7 Q. When do they get the</p> <p>8 notification that they're bumping up against</p> <p>9 their threshold?</p> <p>10 A. I believe it -- that can be a</p> <p>11 different number at a time and you can adjust</p> <p>12 that, but I think the standard was</p> <p>13 90 percent.</p> <p>14 Q. Okay.</p> <p>15 A. I believe.</p> <p>16 Q. So as it gets close to the</p> <p>17 threshold, you actually notify the customer</p> <p>18 and say, "Hey, you're bumping up against your</p> <p>19 threshold," right?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 QUESTIONS BY MR. RAFFERTY:</p> <p>22 Q. So at that point -- well,</p> <p>23 correct?</p> <p>24 A. Correct, that's on the invoice.</p> <p>25 That was on invoice.</p> | <p>Page 137</p> <p>1 any part of regulatory decisions. We</p> <p>2 make the decisions.</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. Okay. I didn't ask you that.</p> <p>5 You would agree with me that</p> <p>6 they shouldn't be involved in making</p> <p>7 regulatory decisions, right?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: The decision, no.</p> <p>10 QUESTIONS BY MR. RAFFERTY:</p> <p>11 Q. Okay.</p> <p>12 A. Gathering information for the</p> <p>13 context of the request, yes.</p> <p>14 Q. So what happens here, according</p> <p>15 to this, is then it says, "Sales and/or DC</p> <p>16 management may contact the customer to</p> <p>17 discuss threshold levels at their</p> <p>18 discretion," right?</p> <p>19 A. Right. That's what it says.</p> <p>20 Q. Are you aware of how DC</p> <p>21 managers and salespeople are paid?</p> <p>22 MS. HENN: Objection to form.</p> <p>23 THE WITNESS: In general, yes.</p> <p>24 QUESTIONS BY MR. RAFFERTY:</p> <p>25 Q. They have an incentive.</p> |

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| <p>1 They're paid on keeping customers and making 2 sales, correct?</p> <p>3 MS. HENN: Objection to form.</p> <p>4 QUESTIONS BY MR. RAFFERTY:</p> <p>5 Q. That is a part of their 6 compensation?</p> <p>7 A. That's how sales works.</p> <p>8 Q. So what you're doing here, 9 according to this, is giving them discretion, 10 once there's a threshold -- once somebody is 11 bumping up against the threshold, to reach 12 out to the customer and talk with them about 13 whether or not they should initiate a 14 threshold change request, right?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 THE WITNESS: Yes.</p> <p>17 QUESTIONS BY MR. RAFFERTY:</p> <p>18 Q. Okay. The very people that 19 stand to profit from it are the ones talking 20 with the customer to see whether or not they 21 should make a threshold change request and 22 get that order shipped, right?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: Those in sales 25 that are incentivized based on sales</p> | <p>1 threshold excursion." That means that the 2 order has exceeded the threshold, right?</p> <p>3 A. Correct.</p> <p>4 Q. "Once a customer has reached 5 their monthly maximum threshold amount, all 6 subsequent orders for that item will be 7 blocked. This triggers the level review 8 process as detailed in level review steps 9 below."</p> <p>10 You see that?</p> <p>11 A. I see that.</p> <p>12 Q. So the -- so what we were 13 talking about earlier, the exceeding of the 14 threshold, is what triggers the level review 15 steps, right?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. And then it says it can 18 be unblocked if it is temporarily changed, 19 permanently changed or if they fall below the 20 threshold by returning product or basically a 21 new month starts, because it's refreshed at 22 the beginning of every month, right?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 QUESTIONS BY MR. RAFFERTY:</p> <p>25 Q. The threshold is.</p> |
| Page 139 | Page 141 |
| <p>1 are the ones that are part of the 2 intake. I do know we have restricted 3 and blocked incentives around 4 controlled substances.</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. Right. But you're --</p> <p>7 A. Being part of the solution --</p> <p>8 or being part of the compensation.</p> <p>9 Q. Right.</p> <p>10 So you're putting the people 11 who stand to profit personally from the sale, 12 giving them the discretion to reach out, have 13 discussions with the customer as to whether 14 or not to initiate a threshold change 15 request. That's what this says, right?</p> <p>16 MS. HENN: Objection to form.</p> <p>17 THE WITNESS: Our sales folks 18 are involved in the process.</p> <p>19 QUESTIONS BY MR. RAFFERTY:</p> <p>20 Q. Okay. It says then, "If a 21 threshold change is requested, follow the 22 change request process in step 1.3."</p> <p>23 Do you see that?</p> <p>24 A. I see that.</p> <p>25 Q. Okay. Now it says, "2.2,</p> | <p>1 A. Correct.</p> <p>2 MS. HENN: Objection to form.</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. Now, in the review process, in 5 the level 1, 2, and 3 review process, retail 6 national accounts are treated differently 7 than smaller accounts; isn't that right?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: In some ways.</p> <p>10 QUESTIONS BY MR. RAFFERTY:</p> <p>11 Q. Well, and in one way that 12 they're treated differently is when, for 13 example, a Rite Aid on the corner of, you 14 know, Main Street exceeds a threshold, you 15 don't call that particular store; you call 16 headquarters, right?</p> <p>17 A. Correct. The relationship is 18 regulatory teams to headquarters team. 19 Headquarters teams to headquarters teams.</p> <p>20 Q. Right.</p> <p>21 And then you gather whatever 22 information -- you don't talk to that 23 particular pharmacy, they do. And they make 24 the determination as to whether or not that 25 threshold should be changed, right?</p> |

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| <p>1 MS. HENN: Objection to form. 2 THE WITNESS: They make the 3 determination as to whether they want 4 to request an increase. We make the 5 determination as to whether it should 6 be changed.</p> <p>7 QUESTIONS BY MR. RAFFERTY:</p> <p>8 Q. Okay. But you're dealing 9 specifically with the headquarters, not with 10 the -- and you're gathering all information 11 from headquarters, right?</p> <p>12 MS. HENN: Objection to form. 13 THE WITNESS: Correct.</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. And in fact, when you do 16 contact them and when you do start performing 17 a threshold change request for the big 18 accounts, you use an abbreviated form and an 19 abbreviated process, right?</p> <p>20 MS. HENN: Objection to form. 21 THE WITNESS: Yes, in some 22 ways. And some of those processes are 23 based on the fact that the company -- 24 so, for example, you know, teams, 25 large chains, have processes to do</p> | <p>1 QUESTIONS BY MR. RAFFERTY: 2 Q. Well, you're relying on their 3 processes. You just said because they have 4 their own processes in place, their own 5 policies, that they're treated differently. 6 The way they're treated 7 differently is you give them more deference 8 in the process than you do Dale's Pharmacy, 9 right?</p> <p>10 MS. HENN: Objection to form. 11 THE WITNESS: In certain parts 12 of the intake in the process, not the 13 decision. We make the decisions.</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. And those decisions that you 16 make, for example, on TCRs, those should be 17 based on direct evidence, right?</p> <p>18 MS. HENN: Objection to form. 19 THE WITNESS: All of the facts 20 and circumstances surrounding the 21 request.</p> <p>22 QUESTIONS BY MR. RAFFERTY:</p> <p>23 Q. Listen to my question, please, 24 sir.</p> <p>25 The decision on a TCR must be</p> |
| <p>1 checks on their employees and 2 background checks and things like 3 that. So that may not be a process 4 that we do in -- on our team, but 5 that's one that the chain team does as 6 part of their normal business.</p> <p>7 QUESTIONS BY MR. RAFFERTY:</p> <p>8 Q. So you give them more deference 9 in the process?</p> <p>10 MS. HENN: Objection to form. 11 THE WITNESS: We recognize that 12 there's certain components that they 13 have in place already that we don't.</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. Go ahead.</p> <p>16 A. That -- that they have -- you 17 know, are better positioned to do in terms of 18 knowing their teams, in the process do 19 background checks or searches or things like 20 that.</p> <p>21 Q. So you give them more deference 22 in the process?</p> <p>23 MS. HENN: Objection to form. 24 THE WITNESS: How do you define 25 deference?</p> | <p>1 based on direct evidence, correct? 2 MS. HENN: Objection to form. 3 THE WITNESS: Based on direct 4 evidence we receive and review and 5 research.</p> <p>6 QUESTIONS BY MR. RAFFERTY:</p> <p>7 Q. Okay. But you agree that 8 that's what the decision should be based on, 9 is direct evidence?</p> <p>10 MS. HENN: Objection to form. 11 THE WITNESS: And -- and the 12 interpretation and collection of 13 information and context, yes.</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. That direct evidence should be 16 valid business decisions, right? That's part 17 of it?</p> <p>18 MS. HENN: Objection to form. 19 THE WITNESS: It's one of the 20 pieces of information, yeah.</p> <p>21 QUESTIONS BY MR. RAFFERTY:</p> <p>22 Q. I think you've already got this 23 in front of you. It's Exhibit 47. It's your 24 presentation notes.</p> <p>25 And we also know that doctor --</p> |

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| <p>1 or that Mr. Rannazzisi specifically said in 2 his 2007 letter you can't simply rely or turn 3 a blind eye simply because the Rite Aid 4 you're providing drugs to or the CVS you're 5 providing drugs to has their own 6 registrant -- are registrants of the DEA, 7 right?</p> <p>8 MS. HENN: Sorry, could you 9 just read that again? It was a little 10 hard to hear.</p> <p>11 QUESTIONS BY MR. RAFFERTY:</p> <p>12 Q. Yeah.</p> <p>13 You would agree -- excuse me.</p> <p>14 You would agree with me that Mr. Rannazzisi, 15 as early as 2007, reiterated the fact that 16 you can't turn a blind eye just because the 17 CVS that you're supplying is also a DEA 18 registrant, right?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: Correct.</p> <p>21 QUESTIONS BY MR. RAFFERTY:</p> <p>22 Q. And if you would, turn to 23 page 15, P1.15. This is Exhibit 47. 24 Slide 15 says, "Thresholds." 25 Do you see that?</p> | <p>1 So acquisition of a pharmacy, 2 right? That's one?</p> <p>3 A. Right.</p> <p>4 Q. Two, a new clinic opening up. 5 Three, growth in overall 6 prescription business or something else that 7 connects the increase to a change in business 8 model or increased patient activity.</p> <p>9 You see that?</p> <p>10 A. Yeah, they're examples of 11 reasons for a request.</p> <p>12 Q. Of direct evidence.</p> <p>13 And if you don't have that 14 direct evidence, you shouldn't grant an 15 increase in the threshold, correct?</p> <p>16 MS. HENN: Objection to form.</p> <p>17 THE WITNESS: Yeah, it depends 18 on the facts and circumstances of 19 everything that's being collected. 20 And I think I use direct evidence to 21 mean -- you know, provide information 22 on the reason for the change, why...</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. I'm listening. I'm just 25 getting the next document, so go ahead.</p> |
| <p>1 A. I do.</p> <p>2 Q. "Lastly, appropriate" -- 3 there's a second paragraph there. "Lastly, 4 appropriate adjustments will be made because 5 in the natural course of business we know 6 there will be growth. To make adjustments, 7 we are really looking for, quote, direct 8 evidence, end quote."</p> <p>9 That's your phrase, right?</p> <p>10 That's what you said?</p> <p>11 A. That's what I had in my notes.</p> <p>12 I don't -- yeah.</p> <p>13 Q. Okay. "An understanding of the 14 business model and demonstration of the 15 corresponding responsibility."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And then it says, "Specifically 19 related to direct evidence, just the fact 20 that the oxycodone sales are increasing is 21 not in and of itself justification to change 22 a threshold. When we say direct evidence, it 23 is things like" -- and you list them out -- 24 "the acquisition of a pharmacy and the 25 details related to projected increases."</p> | <p>1 A. I'm fine.</p> <p>2 Q. There's got to be a reason.</p> <p>3 There's got to be a legitimate reason that 4 you obtain with direct evidence.</p> <p>5 A. There's got to be a reason.</p> <p>6 Q. Well, not just a reason. It's 7 got to be a valid reason, such as a valid 8 business reason like acquiring another 9 pharmacy, right?</p> <p>10 A. That's one of them.</p> <p>11 Q. Right.</p> <p>12 And in making the determination 13 as to whether or not to grant or not grant a 14 threshold change request, you should do that 15 on an individual basis, and it should be 16 based the same -- there should be the same 17 standard for the small pharmacies as the 18 large pharmacies, right?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: Changes are not 21 always on the individual. There's 22 reasons why changes might be done 23 across multiple locations.</p> <p>24 (McKesson-Hartle Exhibit 52 25 marked for identification.)</p> |

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| <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. Okay. All right. Well, let's</p> <p>3 talk about a couple of those. Let's look at</p> <p>4 1.1470, which is going to be Exhibit 52.</p> <p>5 This is a threshold change</p> <p>6 form. You're familiar with this, right?</p> <p>7 A. I am.</p> <p>8 Q. Okay. And have you reviewed</p> <p>9 this particular one?</p> <p>10 A. Let me take a peek real quick</p> <p>11 here.</p> <p>12 Q. It was in 2008, so it was</p> <p>13 before you --</p> <p>14 A. Well before I joined McKesson,</p> <p>15 certainly.</p> <p>16 Q. Right.</p> <p>17 But I'm curious if you've seen</p> <p>18 it since coming to --</p> <p>19 A. I have.</p> <p>20 Q. Okay. And you see here it</p> <p>21 says, "Immediate change request, yes." You</p> <p>22 see that?</p> <p>23 Date, 11/26/08. You see that?</p> <p>24 A. I do.</p> <p>25 Q. And then it is "increase amount</p> | <p>1 Q. I'm not suggesting you were at</p> <p>2 this time.</p> <p>3 A. Right.</p> <p>4 Q. Okay. Do you have an agreement</p> <p>5 with CVS or Rite Aid to not monitor their</p> <p>6 thresholds?</p> <p>7 A. Absolutely not.</p> <p>8 Q. Is there a reason -- because</p> <p>9 you should be monitoring their thresholds,</p> <p>10 right?</p> <p>11 A. We do.</p> <p>12 Q. And they should be</p> <p>13 monitoring -- in 2008, McKesson should have</p> <p>14 been monitoring their thresholds, correct?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 THE WITNESS: Correct.</p> <p>17 QUESTIONS BY MR. RAFFERTY:</p> <p>18 Q. Okay.</p> <p>19 A. What I don't understand -- what I</p> <p>20 don't know is the context of this. I</p> <p>21 don't -- there's reasons why a request across</p> <p>22 an entire chain might be asked for because of</p> <p>23 a change in their business model or sourcing.</p> <p>24 I don't believe this to mean that they're not</p> <p>25 monitoring or part of the threshold system.</p> |
| <p>1 30 percent."</p> <p>2 Do you see that? That's the</p> <p>3 request?</p> <p>4 A. I see that.</p> <p>5 Q. And it says, "Reason for</p> <p>6 change, and attach supporting documentation."</p> <p>7 And it says, "Per agreement between CVS and</p> <p>8 McKesson, approved by Don Walker on</p> <p>9 September 25th, to temporarily withhold</p> <p>10 threshold monitoring until CVS analyzed</p> <p>11 requested data."</p> <p>12 Do you see that?</p> <p>13 A. I see that.</p> <p>14 Q. Are you familiar with this</p> <p>15 agreement to withhold monitoring their</p> <p>16 thresholds between McKesson and CVS?</p> <p>17 A. I am not.</p> <p>18 Q. Do you have, since you're in</p> <p>19 charge of the national -- the retail national</p> <p>20 accounts -- CVS would be one of those, right?</p> <p>21 Now you are, I'm talking about.</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And you have been since</p> <p>24 2014?</p> <p>25 A. 2014.</p> | <p>1 Q. Well, here it says they're</p> <p>2 asking for an across-the-board 30 percent</p> <p>3 increase, correct?</p> <p>4 A. That's what they're asking for.</p> <p>5 Q. Okay. And it says, "Per the</p> <p>6 agreement between CVS and McKesson, approved</p> <p>7 by Don Walker on September 25th, to</p> <p>8 temporarily withhold the threshold</p> <p>9 monitoring."</p> <p>10 Do you see that?</p> <p>11 A. I see that.</p> <p>12 Q. Okay. So at least here, Don</p> <p>13 Walker -- you know, who's Don Walker?</p> <p>14 A. Don Walker was the senior vice</p> <p>15 president of distribution operations.</p> <p>16 Q. Okay. And in fact, threshold</p> <p>17 monitoring, as we talked about, is the</p> <p>18 foundation of you performing your</p> <p>19 responsibility for suspicious order</p> <p>20 monitoring, correct, under the CSMP?</p> <p>21 A. It's the foundation of the</p> <p>22 program --</p> <p>23 Q. Okay.</p> <p>24 A. -- for that piece.</p> <p>25 Q. So if you're not -- if you stop</p> |

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| <p>1 monitoring, then suspicious orders can go 2 through without you ever knowing, right? 3 MS. HENN: Objection to form. 4 THE WITNESS: Could be. I do 5 not believe that that's the -- 6 sometimes there's language that's put 7 in here from -- you know, from a sales 8 conversa -- or a conversation with 9 CVS, and maybe they said, can we not 10 monitor or can we -- you know, it 11 doesn't necessarily mean that's the 12 language of Don or whoever that was 13 there at the time.</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. Now, you're just making that 16 up, right?</p> <p>17 A. I'm not --</p> <p>18 MS. HENN: Objection to form.</p> <p>19 QUESTIONS BY MR. RAFFERTY:</p> <p>20 Q. You don't know. You just said 21 you don't know.</p> <p>22 A. I don't know. I'm speculating, 23 certainly.</p> <p>24 Q. You're speculating. You're 25 guessing.</p> | <p>1 there was some -- whatever it is you just got 2 done saying -- reason. What we have is him 3 saying there's an agreement signed off by Don 4 Walker to temporarily withhold monitoring, 5 threshold monitoring, right? That's what we 6 have?</p> <p>7 A. That's what's on the paper.</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: That's what's on 10 the paper.</p> <p>11 QUESTIONS BY MR. RAFFERTY:</p> <p>12 Q. And that shouldn't be done, 13 right? You should be monitoring thresholds 14 at all times?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 THE WITNESS: That's right.</p> <p>17 (McKesson-Hartle Exhibit 53 18 marked for identification.)</p> <p>19 QUESTIONS BY MR. RAFFERTY:</p> <p>20 Q. Okay. If we go now to 1.1469, 21 and this will be Exhibit 53. This is 22 P1.1469, which is now Exhibit 53. This is 23 another threshold change request.</p> <p>24 Do you see this?</p> <p>25 A. I see this.</p> |
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| <p>1 A. I am. I'll be very clear on 2 that, yeah.</p> <p>3 Q. Okay. Which is another way of 4 saying you're making it up.</p> <p>5 MS. HENN: Objection to form.</p> <p>6 QUESTIONS BY MR. RAFFERTY:</p> <p>7 Q. Right?</p> <p>8 A. Speculating. I believe there 9 are reasons why this may not be exactly how 10 it's written on there.</p> <p>11 Q. Well, what we've been provided 12 is this, which is a one-page form, and what 13 it says is, "Per the agreement between" --</p> <p>14 CVS is a pretty big customer of 15 McKesson, right?</p> <p>16 A. They're a large customer, sure.</p> <p>17 Q. Yeah.</p> <p>18 You don't want to lose them, 19 right? That's a big source of business?</p> <p>20 A. They're a large customer, sure.</p> <p>21 Q. One of the largest?</p> <p>22 A. One of our larger customers, 23 yes.</p> <p>24 Q. Okay. So all we have -- we 25 don't have anything attached saying that</p> | <p>1 Q. Okay. Have you reviewed this 2 before?</p> <p>3 A. I have not.</p> <p>4 Q. Okay. Let's look at it, and 5 let's start with -- let's start on the back 6 page.</p> <p>7 Do you see that, the threshold 8 change form?</p> <p>9 A. Yes.</p> <p>10 MR. RAFFERTY: Which is .28, 11 Corey.</p> <p>12 QUESTIONS BY MR. RAFFERTY:</p> <p>13 Q. I'm sorry, it's .5. It's 14 1.1469.5.</p> <p>15 Do you see that?</p> <p>16 A. I do.</p> <p>17 Q. Okay. And here we got 18 11/28/08. So this is, again, right around 19 that same time period as we just saw the one 20 earlier, which was dated 11/26/08.</p> <p>21 Do you see that?</p> <p>22 MS. HENN: 25.</p> <p>23 MR. RAFFERTY: I'm sorry, was 24 it 25?</p> <p>25 MS. HENN: Well, I guess I see</p> |

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| <p>1 two dates. Sorry about that.</p> <p>2 MR. RAFFERTY: Okay.</p> <p>3 THE WITNESS: Same general</p> <p>4 time.</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. Same general time period,</p> <p>7 right?</p> <p>8 Okay. Let's see what's</p> <p>9 happening with this one. 11/28/08, customer</p> <p>10 name, various RNA customers. See attachment.</p> <p>11 Do you see that?</p> <p>12 A. I see that.</p> <p>13 Q. Okay. RNA, that's the retail</p> <p>14 national accounts. Those are the big ones,</p> <p>15 right?</p> <p>16 A. Those are chains.</p> <p>17 Q. Chains. The big chains,</p> <p>18 national chains, right?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: There's actually</p> <p>21 a variety of chains. Some can be</p> <p>22 specific to a state, to a geography,</p> <p>23 national. There's variety of them.</p> <p>24 QUESTIONS BY MR. RAFFERTY:</p> <p>25 Q. Well, you call them retail</p> | <p>1 Do you believe that</p> <p>2 Thanksgiving, just writing down "Thanksgiving</p> <p>3 holiday" and therefore increasing across the</p> <p>4 board an RNA 30 percent is a valid business</p> <p>5 direct evidence reason?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 THE WITNESS: No.</p> <p>8 QUESTIONS BY MR. RAFFERTY:</p> <p>9 Q. And in fact, not only was it</p> <p>10 increased due to, quote, Thanksgiving</p> <p>11 holiday, end quote, but it was also, if you</p> <p>12 look down, "McKesson use only, permanent or</p> <p>13 temporary threshold change."</p> <p>14 Do you see that? Number 3</p> <p>15 under "McKesson use only."</p> <p>16 A. Oh, I'm sorry. I see that.</p> <p>17 Q. What does that say afterwards?</p> <p>18 A. It says "perm."</p> <p>19 Q. That means?</p> <p>20 A. Permanent.</p> <p>21 Q. So because of the Thanksgiving</p> <p>22 holiday, they're increasing across the board</p> <p>23 one of your big customers 30 percent, and</p> <p>24 they're doing it permanently. That's what</p> <p>25 that means, doesn't it?</p> |
| <p>1 national accounts, right?</p> <p>2 A. That's the name of the</p> <p>3 segments, but I'm saying within there there's</p> <p>4 variations.</p> <p>5 Q. Well, there's Rite Aid, right?</p> <p>6 A. Sure.</p> <p>7 Q. CVS, right?</p> <p>8 A. Sure.</p> <p>9 Q. Okay. Let's look at this and</p> <p>10 see what's being requested.</p> <p>11 "CS requested: Various</p> <p>12 increase in amount, 30 percent increase."</p> <p>13 You see that?</p> <p>14 A. I see that.</p> <p>15 Q. "Reason for change: Attach</p> <p>16 supporting documentation. Increase due to</p> <p>17 Thanksgiving holiday. 30 percent increase."</p> <p>18 Do you see that?</p> <p>19 It's on the threshold change</p> <p>20 form. "Increase due to Thanksgiving holiday,</p> <p>21 30 percent."</p> <p>22 A. I see that.</p> <p>23 Q. I didn't see that listed in</p> <p>24 that -- those examples of your direct</p> <p>25 evidence, Thanksgiving.</p> | <p>1 Page 159</p> <p>1 MS. HENN: Objection to form.</p> <p>2 THE WITNESS: That's what's --</p> <p>3 you know, you could assume that's what</p> <p>4 it means. I don't have the context of</p> <p>5 the whole situation, but --</p> <p>6 QUESTIONS BY MR. RAFFERTY:</p> <p>7 Q. Well, okay.</p> <p>8 A. But that's what's on the paper.</p> <p>9 Q. Well, here's what it says on</p> <p>10 the threshold change request. It says,</p> <p>11 "3" --</p> <p>12 MR. RAFFERTY: Let's blow that</p> <p>13 up, Corey.</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. "3, permanent or temporary</p> <p>16 change." So you're either going to write --</p> <p>17 and then he's got p-e-r-m.</p> <p>18 What are the first four letters</p> <p>19 of the word permanent?</p> <p>20 A. I agree with that. That's</p> <p>21 what --</p> <p>22 Q. Okay.</p> <p>23 A. -- I'm saying. I'm assuming</p> <p>24 that's what that -- this means.</p> <p>25 Q. Okay. Well, let's go --</p> |

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| <p>1 because we got some e-mails that were 2 attached to this. So let's take a look at 3 those.</p> <p>4 Here we got -- if you go to 5 page .3 -- well, first of all, let's back up. 6 Let's go to .4. From Dave Gustin.</p> <p>7 Do you know who Dave Gustin is?</p> <p>8 A. I do know who Dave Gustin is.</p> <p>9 Q. Okay. Who he is?</p> <p>10 A. Dave is a former McKesson 11 employee. He was a director of regulatory 12 affairs at times.</p> <p>13 Q. Okay. A director of regulatory 14 affairs, right?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. One step below you, 17 right?</p> <p>18 A. Yes. One level, yeah.</p> <p>19 Q. One level.</p> <p>20 Directors of regulatory affairs 21 do have decision-making authority, correct?</p> <p>22 A. They do.</p> <p>23 Q. All right. From Dave Gustin to 24 Micheal Bishop.</p> <p>25 Do you know who Micheal Bishop</p> | <p>1 Q. And then if we go down to 2 page .3, from Dave Gustin to Micheal 3 Bishop -- well, let's start at the bottom. 4 Micheal Bishop responds that day and says, "I 5 am. Meeting for next 30."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Then Dave Gustin responds and 9 says, "I just need a TCR from you signed and 10 dated the 30th. I will use it for the 11 30 percent increase I made for the RNAs that 12 day after you e-mailed me all those reports."</p> <p>13 Do you see that?</p> <p>14 A. I see that.</p> <p>15 Q. So what he's asking him to do 16 is actually fill out forms backdating it to 17 the 30th, correct?</p> <p>18 A. He's asking to put the 30th on 19 there.</p> <p>20 Q. Okay. Well, it's not the 30th 21 anymore, is it?</p> <p>22 A. No, but the 30th represents -- 23 it's supposed to represent the day of the -- 24 could be interpreted as the day of the 25 initiation or the request or the formal</p> |
| <p>1 is?</p> <p>2 A. I do. Micheal used to work on 3 my team.</p> <p>4 Q. Okay. And in fact, I think we 5 saw him up there earlier this morning. 6 That's one of the reasons I put that chart up 7 there, so we could go back and reference who 8 some people are.</p> <p>9 Micheal Bishop was on your 10 team, and what position was he?</p> <p>11 A. He was a regulatory affairs 12 manager.</p> <p>13 Q. Manager. Okay.</p> <p>14 And here Dave Gustin is saying 15 on December 16th -- now, remember, the date 16 of this was November 28, 2008. That was the 17 date of the TCR, right, the threshold change 18 form?</p> <p>19 A. Correct.</p> <p>20 Q. So here we are -- what is 21 that -- almost three weeks later where he's 22 e-mailing Micheal Bishop: "Could you do me a 23 favor? Are you in today?"</p> <p>24 Do you see that?</p> <p>25 A. I see that.</p> | <p>1 request.</p> <p>2 Q. Well, you should be putting 3 that down -- you should be filling that 4 paperwork out when it's being -- when it's 5 being performed, right, not three weeks 6 later?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 THE WITNESS: Not always. I 9 mean, you're -- you may make the 10 decisions based on your notes and do 11 the official documentation later.</p> <p>12 QUESTIONS BY MR. RAFFERTY:</p> <p>13 Q. So just fill it out when you 14 get to it. That's the -- that's the McKesson 15 protocol for allowing across-the-board 16 increases in thresholds for narcotics in 17 America: Get to the paperwork when you get 18 to it?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: Not at all.</p> <p>21 Sorry.</p> <p>22 QUESTIONS BY MR. RAFFERTY:</p> <p>23 Q. So that's just a Dave Gustin 24 policy; is that what you're saying?</p> <p>25 MS. HENN: Objection to form.</p> |

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| <p>1 THE WITNESS: It's standard to 2 document things after. You may make 3 the decision based on the information 4 you have in your own notes. To put it 5 into the format may happen after that. 6 That's not uncommon.</p> <p>7 QUESTIONS BY MR. RAFFERTY:</p> <p>8 Q. Well, he's asking him to date 9 it specifically back three weeks earlier, 10 isn't he?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 QUESTIONS BY MR. RAFFERTY:</p> <p>13 Q. Is that how you do business?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 THE WITNESS: I do business by 16 wanting to document the date that it 17 was initiated, to make sure my 18 documentation is timely.</p> <p>19 QUESTIONS BY MR. RAFFERTY:</p> <p>20 Q. Well, if somebody came in and 21 was looking for it between those dates, they 22 wouldn't find any documentation of it, would 23 they?</p> <p>24 MS. HENN: Objection to form.</p> <p>25</p> | <p>1 right?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. It's fairly common sense.</p> <p>5 A. Yeah, it doesn't mean he 6 doesn't have documentation. Dave has 7 documentation somewhere.</p> <p>8 Q. Once again, you don't know, do 9 you?</p> <p>10 A. I don't know. I don't know. I 11 wasn't around at the time. I don't know.</p> <p>12 Q. All right. So let's go to the 13 next one for Micheal Bishop, December 16, 14 2008. This is the Thanksgiving increases.</p> <p>15 Evidently they've got a phrase 16 for them, "Thanksgiving increases."</p> <p>17 Do you see that?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 THE WITNESS: I see that.</p> <p>20 QUESTIONS BY MR. RAFFERTY:</p> <p>21 Q. And then he says, "Yep, 11/28," 22 right?</p> <p>23 A. I see that.</p> <p>24 Q. Okay. And then going forward, 25 let's see what was actually done.</p> |
| <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. That they came in between 3 November 28th and December 16th or 17th, they 4 wouldn't find any documentation because none 5 had been made. And that's why Dave Gustin's 6 asking them to do it now, right?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 THE WITNESS: What's your 9 question specifically?</p> <p>10 QUESTIONS BY MR. RAFFERTY:</p> <p>11 Q. If somebody was looking for the 12 documentation, for example, a senior director 13 of regulatory affairs, and wanted to know why 14 there was this 30 percent across-the-board 15 increase, let's say on December 1st, they 16 wouldn't find any paperwork, would they?</p> <p>17 MS. HENN: Objection to form.</p> <p>18 THE WITNESS: Depends. Depends 19 on how they are -- where they were 20 looking. Are you saying they wouldn't 21 find it because of the date?</p> <p>22 QUESTIONS BY MR. RAFFERTY:</p> <p>23 Q. There wasn't, because Dave 24 Gustin isn't even asking for the proper forms 25 to be filled out until three weeks later,</p> | <p>1 December 17th, Dave Gustin 2 sends out an e-mail and says, "All, on 3 November 28th, I was sent a request by 4 Micheal" --</p> <p>5 That's Micheal Bishop, right?</p> <p>6 A. Yes.</p> <p>7 Q. -- "for over 200 thresholds to 8 get 30 percent increases for various national 9 accounts. The attached TCR form covers all 10 RNA increases made that date. Please sign 11 and file. This is not routine, but I was the 12 only DRA on and so my time was spent making 13 the changes, and I may have missed some 14 e-mails to the DCs. Include a copy of this 15 e-mail along with the TCR in the file. 16 Thanks for your patience and understanding."</p> <p>17 So on November 28th, Dave 18 Gustin increased 200 national accounts by 19 30 percent with the sole reason being given 20 of Thanksgiving, right?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 THE WITNESS: That's what's on 23 the form. Again, I don't know and I 24 don't have the context of --</p> |

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| <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. Well, that's where the reason's</p> <p>3 supposed to be, isn't it, on the form?</p> <p>4 It says, "Reason for change."</p> <p>5 That's where it should be, right?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 THE WITNESS: Yes, or with</p> <p>8 attached supporting documentation.</p> <p>9 QUESTIONS BY MR. RAFFERTY:</p> <p>10 Q. Is there any attached</p> <p>11 supporting documentation?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 THE WITNESS: I don't see any.</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. Okay. And that's not a valid</p> <p>16 reason to increase 200 accounts 30 percent</p> <p>17 permanently, because of the Thanksgiving</p> <p>18 holiday, is it? That's wrong.</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: With only that</p> <p>21 information, I don't -- that's not the</p> <p>22 right -- yeah, I mean, that --</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. Well, that's all the</p> <p>25 information --</p> | <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. Well, this is the context we</p> <p>3 have. This is the TCR that was filed. These</p> <p>4 are the reasons that were given.</p> <p>5 A. I understand.</p> <p>6 Q. And nothing else.</p> <p>7 So as senior director of</p> <p>8 regulatory affairs for the retail national</p> <p>9 accounts, you can say, looking back, that</p> <p>10 this is wrong --</p> <p>11 MS. HENN: Objection to form.</p> <p>12 QUESTIONS BY MR. RAFFERTY:</p> <p>13 Q. -- and it shouldn't have</p> <p>14 happened?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 THE WITNESS: If this is all</p> <p>17 that I had, then I would not do this.</p> <p>18 QUESTIONS BY MR. RAFFERTY:</p> <p>19 Q. And why?</p> <p>20 A. I would need more context.</p> <p>21 Q. Yeah. Because -- and there's</p> <p>22 absolutely no logic or reason or business</p> <p>23 reason to increase 200 accounts 30 percent</p> <p>24 permanently when the explanation is</p> <p>25 "Thanksgiving."</p> |
| <p style="text-align: center;">Page 171</p> <p>1 A. Correct. I'm just saying there</p> <p>2 may be more information. But on its face,</p> <p>3 no, that's not right.</p> <p>4 Q. It's wrong, isn't it? It</p> <p>5 shouldn't be done?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 THE WITNESS: Not in that</p> <p>8 specific way.</p> <p>9 QUESTIONS BY MR. RAFFERTY:</p> <p>10 Q. Well, not in a general way.</p> <p>11 Not in any way should 200 accounts be</p> <p>12 increased 30 percent for the reason</p> <p>13 "Thanksgiving holiday." Two words --</p> <p>14 MS. HENN: Objection to form.</p> <p>15 QUESTIONS BY MR. RAFFERTY:</p> <p>16 Q. -- "Thanksgiving holiday."</p> <p>17 30 percent increase.</p> <p>18 What -- in any way should that</p> <p>19 be right, correct?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: Agreed. Again, I</p> <p>22 don't have -- agree, but I don't have</p> <p>23 the context for exactly what was</p> <p>24 behind the scenes.</p> <p>25</p> | <p style="text-align: center;">Page 173</p> <p>1 Thanksgiving is not a permanent</p> <p>2 holiday, is it?</p> <p>3 MS. HENN: Objection to form.</p> <p>4 QUESTIONS BY MR. RAFFERTY:</p> <p>5 Q. Pretty sure for the week after</p> <p>6 Thanksgiving, Thanksgiving is not around for</p> <p>7 another year, right?</p> <p>8 A. Permanent in that it happens</p> <p>9 every year, but not permanent in that sense.</p> <p>10 Q. Is that what you think he meant</p> <p>11 here or are you just being -- I mean, you're</p> <p>12 making light of it, right?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: No.</p> <p>15 QUESTIONS BY MR. RAFFERTY:</p> <p>16 Q. Because 30 percent is a</p> <p>17 significant increase for an RNA, isn't it?</p> <p>18 A. It could be. It depends on the</p> <p>19 amounts. It's a thousand to 1,300.</p> <p>20 Q. Well, that's a significant</p> <p>21 increase for that store, isn't it, if it's</p> <p>22 set at a thousand?</p> <p>23 A. It depends.</p> <p>24 Q. It depends?</p> <p>25 A. It depends.</p> |

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| <p>1 Q. If it's set at 10,000, then it 2 goes to 13,000, right, which is an extra 3 3,000 doses of narcotics being dispersed to 4 that store, to that store, on the corner of 5 Main Street every month -- 6 MS. HENN: Objection. 7 QUESTIONS BY MR. RAFFERTY: 8 Q. -- from now until there's 9 another change because it's permanent, right? 10 MS. HENN: Objection to form. 11 THE WITNESS: It could be. 12 QUESTIONS BY MR. RAFFERTY: 13 Q. Yeah. 3,000 more narcotics put 14 out in a town because of Thanksgiving 15 holiday, right? 16 MS. HENN: Objection to form. 17 QUESTIONS BY MR. RAFFERTY: 18 Q. In fact, you have been 19 criticized -- when I say "you," I mean 20 McKesson -- has been criticized for the way 21 you handled threshold change requests after 22 the implementation in 2008 of the CSMP, 23 haven't you? 24 MS. HENN: Objection to form. 25</p> | <p>1 Do you see that? 2 A. I do. 3 Q. August 13, 2014. This is while 4 you're there at McKesson now, right? 5 A. Excuse me? 6 Q. You're at McKesson as of August 7 13, 2014? 8 A. I am. In May, yeah. 9 Q. Okay. You are senior 10 regulatory affairs director for national 11 accounts at that time, true? 12 A. Correct. 13 Q. All right. If we could, let's 14 look at page -- and the title here is 15 "Possible civil action against McKesson 16 Corporation for violations of the Controlled 17 Substances Act." 18 Do you see that? 19 A. I do. 20 Q. And it says -- and this is a 21 letter to your -- to McKesson's lawyers at 22 Covington & Burling, the same lawyers here 23 today, right? The same law firm? 24 A. The same firm, yeah. 25 Q. "The United States Attorney's</p> |
| Page 175 | Page 177 |
| <p>1 QUESTIONS BY MR. RAFFERTY: 2 Q. The DOJ, as part of their 3 investigation after 2008, part of that 4 involved how you were handling threshold 5 change requests, true? 6 MS. HENN: Objection to form. 7 THE WITNESS: Yes, it was part 8 of those allegations. 9 QUESTIONS BY MR. RAFFERTY: 10 Q. Okay. And you've reviewed 11 those -- that correspondence from the DOJ, 12 right? 13 A. Yes. 14 MS. HENN: Objection to form. 15 QUESTIONS BY MR. RAFFERTY: 16 Q. Back in 2014, right? 17 A. Yes. 18 (McKesson-Hartle Exhibit 54 19 marked for identification.) 20 QUESTIONS BY MR. RAFFERTY: 21 Q. Let's go to 1.1433. This will 22 be Exhibit 54. 23 Here we've got a letter from 24 the US Department of Justice, John Walsh, 25 District of Colorado.</p> | <p>1 Office for the District in Colorado, in 2 conjunction with the DEA, is investigating 3 whether the McKesson Corporation's Aurora 4 distribution center, located at 14500 East 5 39th Avenue, Aurora, Colorado, violated the 6 Comprehensive Drug Abuse Prevention Control 7 Act." 8 Do you see that? 9 A. I do. 10 Q. And then throughout this 11 letter, it goes through and lays out several 12 different violations, correct? 13 MS. HENN: Objection to form. 14 THE WITNESS: Can you ask that 15 question again, please? 16 QUESTIONS BY MR. RAFFERTY: 17 Q. Yeah. 18 This letter goes through -- and 19 we're going to go through some of it now and 20 some of it this afternoon, but that's what 21 this letter is doing, is they're notifying 22 McKesson of violations of the Controlled 23 Substance Act, right? 24 MS. HENN: Objection to form. 25 THE WITNESS: Their</p> |

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| 1 allegations, right. 2 QUESTIONS BY MR. RAFFERTY: 3 Q. Okay. So here it says, if you 4 turn to .11, skipping ahead, and it says, 5 "McKesson-Aurora's desire for increased sales 6 overrode its obligations to report suspicious 7 orders." 8 Section B, do you see that? 9 A. Yes. 10 Q. "Our investigation has revealed 11 a disturbing pattern: McKesson-Aurora's 12 desire for increased sales and retaining its 13 customers overrode its obligations to report 14 suspicious orders. We have identified this 15 trend across several different areas: 1, 16 McKesson-Aurora manipulated and circumvented 17 thresholds." 18 Do you see that? 19 A. I see that. 20 Q. "Thresholds were supposed to be 21 the linchpin of McKesson's compliance 22 program, but McKesson-Aurora manipulated 23 customers' threshold levels in numerous ways 24 to avoid rigorous internal review." 25 Did I read that right? | 1 US Attorney in Colorado, is telling McKesson 2 they were doing, right? 3 MS. HENN: Counsel, can I just 4 pause for a minute? 5 Counsel, if there's a need to 6 have conversations, we reserved a room 7 just next door, and I would ask you to 8 either refrain from talking and 9 distracting the witness or please 10 leave the room. Is that okay? 11 Thank you, sir. 12 QUESTIONS BY MR. RAFFERTY: 13 Q. All right. Going down here it 14 says -- that's exactly what your -- the 15 US Attorney in Colorado is accusing McKesson 16 of, right, setting the thresholds too high to 17 avoid the triggering of the tiered review? 18 That's what it says. 19 A. Right. 20 Q. Okay. "In some cases, 21 McKesson-Aurora set thresholds so high at the 22 outset that the pharmacy customer would never 23 exceed it and thus never trigger any review 24 as to whether an order was indeed 25 suspicious." |
| Page 179 | Page 181 |
| 1 A. You did. 2 Q. And in fact it says, "First, 3 McKesson-Aurora set its initial thresholds 4 for its pharmacy customers very high. 5 McKesson-Aurora's review process was not even 6 triggered until an individual pharmacy sold 7 more than 10 percent of that pharmacy's 8 average volume from a 12-month period from 9 2007 to 2008, a year in which McKesson had 10 settled claims because diversion was 11 flourishing in McKesson-supplied pharmacies." 12 Do you see that? 13 A. I do see that. 14 Q. That's what we were talking 15 about earlier, right, when I asked you about 16 if you set thresholds too high initially, 17 then the trigger for the evaluation is never 18 set off, right? 19 MS. HENN: Objection to form. 20 THE WITNESS: It's what we 21 discussed earlier, correct. 22 QUESTIONS BY MR. RAFFERTY: 23 Q. Yes. 24 And that's exactly now what the 25 District Attorney in Colorado, the | 1 Once again, the same thing we 2 were talking about earlier, right? 3 MS. HENN: Objection. Go 4 ahead. 5 QUESTIONS BY MR. RAFFERTY: 6 Q. Correct? 7 MS. HENN: Objection to form. 8 THE WITNESS: Right. 9 QUESTIONS BY MR. RAFFERTY: 10 Q. Right. 11 And that that was -- when I 12 asked you if that was a way to manipulate the 13 threshold process, was to set the threshold 14 so high that it never triggered the tier 15 review, that's what you're being accused of 16 by the US Attorney here, right? 17 MS. HENN: Objection to form. 18 THE WITNESS: That's what they 19 have in here, correct. 20 QUESTIONS BY MR. RAFFERTY: 21 Q. Okay. "Second" -- if you turn 22 to the next page, which is .12. "Second, 23 McKesson-Aurora routinely manipulated the 24 thresholds." 25 Do you see that? |

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| <p style="text-align: right;">Page 182</p> <p>1 A. I do.</p> <p>2 Q. "It would often preemptively 3 increase the threshold of its customers on 4 particular drugs before the customers had 5 even submitted a TCR seeking a threshold 6 increase."</p> <p>7 There, that's where we're -- 8 that's -- they're talking about actually 9 McKesson employees increasing the thresholds 10 without even a request being made by the 11 customer, right?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 QUESTIONS BY MR. RAFFERTY:</p> <p>14 Q. That's what they're talking 15 about?</p> <p>16 A. That's what they're talking 17 about.</p> <p>18 Q. Okay. Down in the next 19 paragraph, next full paragraph: "Time and 20 time again, McKesson-Aurora increased a 21 customer's threshold in a particular month so 22 that the customer did not exceed that 23 threshold and thus trigger McKesson-Aurora's 24 obligation to conduct a level 2 or level 3 25 review, much less file an SOR with the DEA."</p> | <p style="text-align: right;">Page 184</p> <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. Did it say anything in that TCR 3 about a population changing or shifting?</p> <p>4 A. It didn't. That's why I'm 5 saying on its own, it's not.</p> <p>6 Q. So are you defending the fact 7 that 200 customers were increased 30 percent 8 because of, quote, the Thanksgiving holiday?</p> <p>9 A. No.</p> <p>10 MS. HENN: Objection to form.</p> <p>11 QUESTIONS BY MR. RAFFERTY:</p> <p>12 Q. Okay. Well, let's see some of 13 the examples that the US Attorney used here, 14 which are different than the Thanksgiving.</p> <p>15 "Dale's Pharmacy requested an 16 increase of its oxycodone threshold on 17 December 27, 2010. Dale's proffered 18 justification was normal business with 19 increased volume during the holidays."</p> <p>20 Do you see that?</p> <p>21 "Although there were only four 22 days remaining in the month until Dale's 23 oxycodone would be reset, McKesson-Aurora 24 approved an 8,000 dosage unit increase of 25 Dale's oxycodone threshold, increasing the</p> |
| <p style="text-align: right;">Page 183</p> <p>1 Do you see that?</p> <p>2 A. I see that.</p> <p>3 Q. And then, "Third, 4 McKesson-Aurora was often willing to increase 5 a pharmacy's threshold for the flimsiest of 6 reasons and without adequate investigation, 7 to give just a few of many examples."</p> <p>8 First of all, that 9 Thanksgiving, you would refer to that or you 10 would consider that a flimsy reason, right?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 QUESTIONS BY MR. RAFFERTY:</p> <p>13 Q. Is Thanksgiving a flimsy 14 reason, or the flimsiest of reasons?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. It may not even qualify as 18 flimsy.</p> <p>19 MS. HENN: Same objection.</p> <p>20 THE WITNESS: I mean, on the 21 surface it's not, by itself, a reason. 22 There may be circumstances where in 23 certain markets populations change and 24 shift, so -- but on its own --</p> | <p style="text-align: right;">Page 185</p> <p>1 threshold by 20.5 percent from 39,000 to 2 47,000 dosage units."</p> <p>3 Do you see that?</p> <p>4 A. I see that.</p> <p>5 Q. "From June 2010 to 6 November 2010, McKesson-Aurora justified 7 many -- multiple threshold increases for 8 Dale's Pharmacy based upon an alleged influx 9 of customers due to the closure of a 10 neighboring pharmacy in Fort Lupton. Several 11 of the TCRs for Dale's justified requests for 12 threshold increases on the grounds that the 13 API Pharmacy had stopped selling controlled 14 substances. In point of fact, the API 15 Pharmacy had closed seven years earlier."</p> <p>16 You see that?</p> <p>17 A. I see that.</p> <p>18 Q. That's the kind of thing that 19 you're supposed to, if you're actually 20 effectively implementing the CSMP, that you 21 should know, isn't that right, that you 22 should detect?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: It should be a 25 piece of information you should know.</p> |

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| <p style="text-align: right;">Page 186</p> <p>¹ QUESTIONS BY MR. RAFFERTY:</p> <p>² Q. Well, not -- yeah, that you ³ should find -- you should be able to ⁴ determine if you're actually doing due ⁵ diligence and exercising due diligence in ⁶ whether or not to increase a threshold, ⁷ right?</p> <p>⁸ A. You should research that.</p> <p>⁹ Q. Okay. "The pharmacy at Salud, ¹⁰ another pharmacy in Fort Lupton, did stop ¹¹ selling controlled substances for 19 days in ¹² 2010. However, McKesson-Aurora allowed ¹³ Dale's to rely on this closure excuse for ¹⁴ continued threshold increases for another ¹⁵ four months, even after the pharmacy at Salud ¹⁶ was back up and running."</p> <p>¹⁷ Once again, something that if ¹⁸ McKesson was using and exercising due ¹⁹ diligence in its investigation it should ²⁰ determine and it should find out, right?</p> <p>²¹ MS. HENN: Objection to form.</p> <p>²² THE WITNESS: Again, that ²³ information is critical to the ²⁴ decision, part of it.</p> <p>²⁵</p> | <p style="text-align: right;">Page 188</p> <p>¹ accommodate whatever purchasing occurred, or ² they were set so high that they never ³ triggered any review."</p> <p>⁴ Q. And that's -- that means that ⁵ the thresholds were being manipulated by ⁶ McKesson in order to accommodate sales, ⁷ right?</p> <p>⁸ MS. HENN: Objection to form.</p> <p>⁹ THE WITNESS: That's the ¹⁰ allegation in here.</p> <p>¹¹ QUESTIONS BY MR. RAFFERTY:</p> <p>¹² Q. Okay. And for example, ¹³ allowing, for example, that 30 percent ¹⁴ increase to 200 stores because of the ¹⁵ Thanksgiving holiday, that would be an ¹⁶ example of manipulating thresholds to ¹⁷ accommodate sales, wouldn't it?</p> <p>¹⁸ MS. HENN: Objection to form.</p> <p>¹⁹ THE WITNESS: And I have zero ²⁰ context for all the information on the ²¹ decision that was actually made, other ²² than what was in the form.</p> <p>²³ QUESTIONS BY MR. RAFFERTY:</p> <p>²⁴ Q. Based on what you've seen in ²⁵ the form, that would be manipulating the</p> |
| <p style="text-align: right;">Page 187</p> <p>¹ QUESTIONS BY MR. RAFFERTY:</p> <p>² Q. And should be found -- and ³ should be discovered?</p> <p>⁴ MS. HENN: Objection to form.</p> <p>⁵ QUESTIONS BY MR. RAFFERTY:</p> <p>⁶ Q. Right?</p> <p>⁷ A. It should be part of it, yes.</p> <p>⁸ Q. And if you're exercising due ⁹ diligence.</p> <p>¹⁰ Going down to the bottom: "In ¹¹ sum, the thresh -- the thresholds that were ¹² originally intended to trigger an ¹³ investigation that could result in a ¹⁴ suspicious order being reported to the DEA ¹⁵ never served this purpose. McKesson did not ¹⁶ set and then maintain its thresholds as ¹⁷ required by its CSMP. The thresholds did not ¹⁸ meaningfully restrict McKesson-Aurora's ¹⁹ customers from obtaining controlled ²⁰ substances."</p> <p>²¹ And then read that next ²² sentence, please.</p> <p>²³ A. It starts "thresholds"?</p> <p>²⁴ Q. Yep.</p> <p>²⁵ A. "Thresholds were moved to</p> | <p style="text-align: right;">Page 189</p> <p>¹ thresholds to accommodate sales, right?</p> <p>² MS. HENN: Objection to form.</p> <p>³ THE WITNESS: I wouldn't phrase ⁴ it that way, but it's -- again, I ⁵ would -- it's not a decision that I -- ⁶ I mean, it requires more context than ⁷ what is on the form.</p> <p>⁸ QUESTIONS BY MR. RAFFERTY:</p> <p>⁹ Q. But if that's all the context ¹⁰ you have, that would be an example of ¹¹ manipulating the thresholds to accommodate ¹² sales, right?</p> <p>¹³ MS. HENN: Objection to form.</p> <p>¹⁴ THE WITNESS: Of changing the ¹⁵ thresholds.</p> <p>¹⁶ QUESTIONS BY MR. RAFFERTY:</p> <p>¹⁷ Q. All right. Now let's --</p> <p>¹⁸ MS. HENN: Counsel, it's ¹⁹ getting close to lunch and we've been ²⁰ going on an hour and 20 minutes. ²¹ Would this be a good time for a break ²² to get some lunch?</p> <p>²³ MR. RAFFERTY: Well, it's up to ²⁴ the witness, obviously, but if we ²⁵ could accommodate ten more minutes, I</p> |

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| <p>1 can get through this particular --</p> <p>2 THE WITNESS: What time is it?</p> <p>3 MS. HENN: It's 11:52 or 3.</p> <p>4 THE WITNESS: That's fine.</p> <p>5 MR. RAFFERTY: Is that okay?</p> <p>6 THE WITNESS: That's okay.</p> <p>7 MR. RAFFERTY: Totally up to</p> <p>8 you. I don't want to force you.</p> <p>9 THE WITNESS: No, that's okay.</p> <p>10 MS. HENN: Don't push it.</p> <p>11 (McKesson-Hartle Exhibit 55</p> <p>12 marked for identification.)</p> <p>13 QUESTIONS BY MR. RAFFERTY:</p> <p>14 Q. Now, in setting the</p> <p>15 threshold -- let's talk about setting the</p> <p>16 thresholds, because that was -- part of the</p> <p>17 allegations in here was the thresholds</p> <p>18 were -- part of the allegations in August</p> <p>19 of 2014 by the US Attorney was that the</p> <p>20 thresholds were being set too high, right?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 THE WITNESS: That's part of</p> <p>23 the allegation.</p> <p>24 QUESTIONS BY MR. RAFFERTY:</p> <p>25 Q. Okay. And if we look at</p> | <p>1 Q. Okay. Let's focus on -- now,</p> <p>2 this is about a month after you got the</p> <p>3 letter, so let's be clear.</p> <p>4 You got Exhibit 55, your e-mail</p> <p>5 dated July 23, 2014, and that's dealing with</p> <p>6 a TCR, a threshold change request, from</p> <p>7 Wegmans.</p> <p>8 Do you see that?</p> <p>9 A. I see that.</p> <p>10 Q. Okay. And then the letter from</p> <p>11 the US Attorney is sent a month later, in</p> <p>12 August, alleging that the thresholds were</p> <p>13 being set too high by McKesson in order to</p> <p>14 avoid detection of suspicious orders. That</p> <p>15 was the allegation, right?</p> <p>16 A. It was.</p> <p>17 Q. Okay. And then a -- at least a</p> <p>18 short time after that letter is Exhibit 56,</p> <p>19 which is the September 9, 2014 letter.</p> <p>20 Do you see that -- or e-mail?</p> <p>21 A. Yes.</p> <p>22 Q. All right. So a month after</p> <p>23 you -- that letter is sent to McKesson's</p> <p>24 lawyers, you write a letter -- or an e-mail,</p> <p>25 I'm sorry, dated September 9, 2014, up at the</p> |
| Page 191 | Page 193 |
| <p>1 1.1461, which will be Exhibit 55 to the</p> <p>2 deposition.</p> <p>3 Now, this is from Nate Hartle.</p> <p>4 Do you see that at the top?</p> <p>5 A. I do.</p> <p>6 Q. Okay. Now -- and this is dated</p> <p>7 July 23, 2014, right?</p> <p>8 A. Yes.</p> <p>9 Q. So just about a month before</p> <p>10 that letter from the US Attorney, right?</p> <p>11 A. Correct.</p> <p>12 Q. That we just looked at?</p> <p>13 A. Right after I joined.</p> <p>14 Q. Okay. And this is right after</p> <p>15 you joined, right?</p> <p>16 (McKesson-Hartle Exhibit 56</p> <p>17 marked for identification.)</p> <p>18 QUESTIONS BY MR. RAFFERTY:</p> <p>19 Q. Okay. Now I want to show you</p> <p>20 1.1458, which will be Exhibit 56 to the</p> <p>21 deposition.</p> <p>22 All right. This is another</p> <p>23 e-mail from Nate Hartle, September 9, 2014.</p> <p>24 Do you see that?</p> <p>25 A. I do.</p> | <p>1 top, and you copy Micheal Bishop as well as</p> <p>2 Michael Oriente.</p> <p>3 Do you see that?</p> <p>4 A. I do.</p> <p>5 Q. And then it says, "Wakefern</p> <p>6 threshold methodology."</p> <p>7 You see that?</p> <p>8 A. I do.</p> <p>9 Q. And what it says is,</p> <p>10 "Sensitivity: Company, confidential," right?</p> <p>11 Don't share it outside the</p> <p>12 walls of McKesson, right?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: It's classified</p> <p>15 confidential, yeah.</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. "Bishop: You asked on the call</p> <p>18 about the methodology we have used in the</p> <p>19 past, so below is what we will use. This</p> <p>20 will be the same as what we will need to do</p> <p>21 with the new NRA {sic} volume for</p> <p>22 hydrocodone."</p> <p>23 So what you're doing is you're</p> <p>24 asking -- you're telling him about how to set</p> <p>25 an initial threshold for this, right?</p> |

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| <p>1 A. Correct.</p> <p>2 Q. All right. And what you say</p> <p>3 is, let's calculate it using the total doses</p> <p>4 times distribution settle norm times buffer.</p> <p>5 Do you see that?</p> <p>6 A. I see that.</p> <p>7 Q. Okay. And you're familiar with</p> <p>8 that calculation being one that you've used</p> <p>9 during your time at McKesson, right?</p> <p>10 A. Well, this is shortly -- I had</p> <p>11 only been with McKesson for a few months.</p> <p>12 I'm familiar with that one as having been</p> <p>13 used.</p> <p>14 Q. Okay. This has been used in</p> <p>15 the past; that's what you said?</p> <p>16 A. Similar concept.</p> <p>17 Q. Okay. "Buffer, we've used</p> <p>18 25 percent in the past, so that is what I've</p> <p>19 put in for now. And then rounding, we will</p> <p>20 also round up to the nearest 500."</p> <p>21 Do you see that?</p> <p>22 A. I see that.</p> <p>23 Q. So to make sure we're clear,</p> <p>24 you're using a threshold determination that</p> <p>25 was used in the past, and you're doing it --</p> | <p>1 methodology is, you take the total doses</p> <p>2 and -- well, strike that.</p> <p>3 The buffer. What you do is you</p> <p>4 take a certain number. Is it the max number</p> <p>5 for the last six months? The max number for</p> <p>6 the last 12 months? What is it?</p> <p>7 A. I'm not sure what it was on</p> <p>8 this particular one.</p> <p>9 Q. Okay. But that's typically</p> <p>10 what you've done in the past is taken either</p> <p>11 the last six months' sales and found the</p> <p>12 highest month or the last 12 months' sales</p> <p>13 and found the highest month sales, right --</p> <p>14 MS. HENN: Objection to form.</p> <p>15 QUESTIONS BY MR. RAFFERTY:</p> <p>16 Q. -- as the foundation?</p> <p>17 MS. HENN: Objection to form.</p> <p>18 THE WITNESS: Typically using</p> <p>19 dispensing data.</p> <p>20 QUESTIONS BY MR. RAFFERTY:</p> <p>21 Q. Okay.</p> <p>22 A. Not purchasing.</p> <p>23 Q. Okay. But the highest 12-month</p> <p>24 or the highest 6-month, right?</p> <p>25 A. We've used those --</p> |
| <p>1 you're using the same threshold process that</p> <p>2 was used in the past just a few weeks after</p> <p>3 the US Attorney said you're setting the</p> <p>4 thresholds too high to avoid detection,</p> <p>5 right?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 THE WITNESS: Can you ask that</p> <p>8 again or rephrase it?</p> <p>9 QUESTIONS BY MR. RAFFERTY:</p> <p>10 Q. Yeah.</p> <p>11 You're saying here, let's use</p> <p>12 the same methodology we used in the past,</p> <p>13 right? That's what you said?</p> <p>14 A. That's what -- that's in here.</p> <p>15 Q. Okay.</p> <p>16 A. This relates to --</p> <p>17 Q. And this was a few weeks after</p> <p>18 having gotten the letter from the US Attorney</p> <p>19 specifically alleging that you are setting</p> <p>20 the thresholds too high in order to avoid</p> <p>21 detection of suspicious orders, right?</p> <p>22 That's the time frame?</p> <p>23 A. That's the timing.</p> <p>24 Q. Okay. So you stick with the</p> <p>25 methodology used in the past, and the</p> | <p>1 MS. HENN: Objection to form.</p> <p>2 Go ahead.</p> <p>3 THE WITNESS: Those are part of</p> <p>4 the calculations at the time.</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. Okay. And then what you do is</p> <p>7 you take that highest number, the highest</p> <p>8 number you can get over the last year, and</p> <p>9 you tack on 25 percent above it, right?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 QUESTIONS BY MR. RAFFERTY:</p> <p>12 Q. That's the buffer, 25 percent?</p> <p>13 A. That's what a buffer is.</p> <p>14 Q. That's what a buffer is.</p> <p>15 Okay. So if a store's max</p> <p>16 number of last 12 months was 10,000, you</p> <p>17 automatically set the threshold -- or you</p> <p>18 automatically add a buffer of another 2,500,</p> <p>19 right?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: That's how the</p> <p>22 math works.</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. That's how the math works.</p> <p>25 A. Dispensing versus purchasing.</p> |

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| <p>1 Q. Okay. And then what you do 2 after that is you then round it up to the 3 next 500. So if it's -- if the number ends 4 up falling at 12,501, you then jack it up 5 another 499 and put it at 13,000 so that 6 the -- the max number of dispensing in a 7 month was 10,000, your buffer is now 13,000, 8 or 30 percent higher, than what it is they've 9 ever dispensed in the prior year, right?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 THE WITNESS: That's the math. 12 The rounding is for -- you can't -- 13 for bottle size factors, typically.</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. Well, but you're rounding up. 16 Why not round it down? You don't round it 17 down, do you?</p> <p>18 A. Typically don't.</p> <p>19 Q. No. You round it up because 20 that increases the threshold, and that 21 reduces the risk that they're going to bump 22 up against the threshold and reduce the 23 chance that you're going to have to actually 24 conduct an investigation on somebody as 25 valuable of a customer such as Rite Aid,</p> | <p>1 been -- they were a few months after I joined 2 the team. The intent is to allow a customer 3 in -- to purchase, to meet that legitimate 4 dispensing. And there are reasons why there 5 are buffers on top of a dispensing amount, 6 even a purchasing amount, because there is 7 significant variation in purchasing patterns 8 at times.</p> <p>9 Q. It just happens to have the 10 added benefit of increasing the threshold so 11 high that it's 30 percent higher than any 12 time in any month they've ever dispensed, 13 right? That's just an added bonus?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 THE WITNESS: I wouldn't call 16 it an added bonus. Again, the intent 17 is to try to allow them to purchase --</p> <p>18 QUESTIONS BY MR. RAFFERTY:</p> <p>19 Q. Okay.</p> <p>20 A. -- to get their legitimate 21 dispensing.</p> <p>22 Q. Okay. Well, you could have -- 23 strike that.</p> <p>24 Let's look at the exhibit, this 25 July 23, 2014 e-mail. This was the month</p> |
| <p>1 right?</p> <p>2 You're jacking the thresholds 3 up as high as you can; isn't that what you're 4 doing?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 THE WITNESS: No.</p> <p>7 QUESTIONS BY MR. RAFFERTY:</p> <p>8 Q. Well, you're not rounding down; 9 we can agree on that, right?</p> <p>10 A. The intent --</p> <p>11 Q. You're not rounding down. That 12 was my question.</p> <p>13 A. That's -- we're not rounding 14 down.</p> <p>15 Q. Right.</p> <p>16 MS. HENN: And the witness can 17 finish his answer if he'd like.</p> <p>18 MR. RAFFERTY: Well, it wasn't 19 responsive to my question.</p> <p>20 MS. HENN: He can finish his 21 answer if he'd like.</p> <p>22 QUESTIONS BY MR. RAFFERTY:</p> <p>23 Q. Go ahead.</p> <p>24 A. I don't recall every single 25 detail associated with these, as they've</p> | <p>1 before the August 2014 letter from the 2 US Attorney.</p> <p>3 "Hi, guys" --</p> <p>4 This is from you, right, Nate 5 Hartle?</p> <p>6 A. It is.</p> <p>7 Q. Okay. "Hi, guys, I took a look 8 this morning and have a few questions and 9 comments." Now, this is -- the subject 10 matter is "Wegmans TCR request."</p> <p>11 So what they're looking at is 12 what to set Wegmans levels at. Would you 13 agree with that? Threshold?</p> <p>14 If you look at page .4, Shari 15 Pickell e-mail --</p> <p>16 A. Yes.</p> <p>17 Q. -- to you -- well, cc'd you.</p> <p>18 And it says, "Please see the 19 attached TCR report and dispensing data for 20 oxycodone for Wegmans stores."</p> <p>21 A. Right.</p> <p>22 Q. "With their new contract, they 23 are moving their incremental volume over to 24 McKesson."</p> <p>25 So they're moving business to</p> |

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| <p style="text-align: right;">Page 202</p> <p>1 McKesson now, right? 2 A. Correct. 3 Q. "Please adjust thresholds 4 accordingly." So there's some back and 5 forth. 6 And then ultimately it looks 7 like on the base codes -- what are the base 8 codes 9813 and 9814; do you know? 9 A. Those aren't -- those aren't 10 current ones in our -- so I can't -- 11 Q. At the time was oxycodone and 12 oxy 30, right? 13 MS. HENN: Objection to form. 14 QUESTIONS BY MR. RAFFERTY: 15 Q. Well, either way it's -- 16 A. I can't -- 17 Q. -- it's one -- it's a -- it's 18 a -- 19 MS. HENN: One at a time, 20 please. 21 QUESTIONS BY MR. RAFFERTY: 22 Q. It's an opioid. 23 A. Yeah. 24 Q. They're opioids, right? 25 A. Yeah.</p> | <p style="text-align: right;">Page 204</p> <p>1 Q. All right. So what -- they 2 look here, and it looks like some of the 3 base -- thresholds based on the calculations 4 actually may be going down; is that right? 5 A. Can you say that again or point 6 me to what you're talking about? 7 Q. Yeah, well, let's go up here. 8 And you say, "Hi, guys, I took 9 a look this morning and have a few 10 questions/comments." 11 Do you see that? 12 A. Uh-huh. 13 Q. "One, do we really want to be 14 lowering thresholds right now?" 15 Do you see you asking that 16 question? 17 A. Uh-huh. 18 Q. And then it says and it goes 19 on, "If the current ones are still within 20 normal level, with thresholds barely above 21 the average and sometimes lower than the max, 22 this may cause issues like unnecessary 23 omits," right? 24 A. Uh-huh. 25 Q. So what you're saying is, let's</p> |
| <p style="text-align: right;">Page 203</p> <p>1 Q. They're Schedule II? 2 A. They're not the current base 3 code numbers today, so that's why I'm not 4 recalling exactly, but, yeah. 5 Q. Well, we know they're narcotic 6 painkillers, right? They're Schedule II 7 drugs? 8 A. They're listed in here. I'll 9 give you that. 10 Q. Oh, oxycodone there. Where? 11 Yeah, okay. Yeah, dispensing 12 data for oxycodone. 13 MS. HENN: What are you 14 referring to? 15 MR. RAFFERTY: Page .4 in the 16 original e-mail from Shari Pickell. 17 THE WITNESS: Shari may have 18 put -- transposed the numbers. The 19 numbers are 9143 and 9144 -- 20 QUESTIONS BY MR. RAFFERTY: 21 Q. You're right. You're right. 22 A. -- so I think that's probably 23 the case. 24 Q. Okay. Either way. 25 A. Yeah, right.</p> | <p style="text-align: right;">Page 205</p> <p>1 use a different calculation than what was 2 being proposed, right? 3 MS. HENN: Objection to form. 4 QUESTIONS BY MR. RAFFERTY: 5 Q. In number 3? 6 "I was thinking we would do 7 something more like we did with the Rite Aid 8 recently. For example, we used total RX 9 times the DC norm and add a buffer. In 10 Wegmans' case, we could probably start with a 11 buffer on top of their max amount." 12 So that's what we were talking 13 about, the system that you were using in 14 September, right? Take the max amount per 15 month of dispensing -- 16 A. Right. 17 Q. -- add a buffer. 18 Do you see that? 19 A. I do. 20 Q. All right. And then round up. 21 It says, "Take max and add a buffer, i.e., 22 20 percent." 23 Back then it was 20 percent in 24 July, right? It went up to 25 percent in 25 your e-mail in September?</p> |

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| <p>1 MS. HENN: Objection to form.</p> <p>2 QUESTIONS BY MR. RAFFERTY:</p> <p>3 Q. But here it says, "take" -- it</p> <p>4 says, "Logic, take max and add a buffer,</p> <p>5 i.e., 20 percent, to round up to the nearest</p> <p>6 500."</p> <p>7 Do you see that?</p> <p>8 A. I see that.</p> <p>9 Q. So once again, taking whatever</p> <p>10 number it is -- and so you give an example</p> <p>11 down below, store number 1. The max monthly</p> <p>12 dispensing for that store at 11,800, add the</p> <p>13 20 percent buffer puts it at 14,1,060 {sic},</p> <p>14 new threshold, 14,500.</p> <p>15 Do you see that?</p> <p>16 A. I see that.</p> <p>17 Q. So instead of -- so that's</p> <p>18 almost 3,000 doses per month higher than</p> <p>19 their max dispensing, right?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 QUESTIONS BY MR. RAFFERTY:</p> <p>22 Q. That's an example.</p> <p>23 A. It's an example.</p> <p>24 Q. Okay.</p> <p>25 A. I would again contend I don't</p> | <p>1 MS. HENN: Objection to form.</p> <p>2 THE WITNESS: Correct.</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. All right. Now --</p> <p>5 MS. HENN: Counsel, we're going</p> <p>6 to need to take a break. It's been an</p> <p>7 hour and 40 minutes.</p> <p>8 VIDEOPHOTOGRAPHER: Okay. The time</p> <p>9 is 12:08 p.m., and we're going off the</p> <p>10 record.</p> <p>11 (Off the record at 12:08 p.m.)</p> <p>12 VIDEOPHOTOGRAPHER: The time is</p> <p>13 1:01 p.m., and we're back on the</p> <p>14 record.</p> <p>15 QUESTIONS BY MR. RAFFERTY:</p> <p>16 Q. Mr. Hartle, just to kind of</p> <p>17 close the loop on where we were before the</p> <p>18 lunch break.</p> <p>19 Now, we reviewed a couple</p> <p>20 documents. I'm not going to go back through</p> <p>21 where -- the policy that you were using, or</p> <p>22 the formula you were using, to set new</p> <p>23 thresholds included the maximum dispensing</p> <p>24 amount for a month from the previous 12-month</p> <p>25 period, correct?</p> |
| Page 207 | Page 209 |
| <p>1 know all the details or recall every single</p> <p>2 detail, but the idea is to allow for</p> <p>3 legitimate dispensing and normal variations</p> <p>4 in purchasing, so --</p> <p>5 Q. That's not what the US Attorney</p> <p>6 in Colorado put in the allegations against</p> <p>7 your company, was it? That's not -- that</p> <p>8 wasn't -- that wasn't the allegation, was it?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 THE WITNESS: No. That's not</p> <p>11 the language in there, no.</p> <p>12 QUESTIONS BY MR. RAFFERTY:</p> <p>13 Q. And in fact, that Aurora</p> <p>14 conduct in that particular letter was part of</p> <p>15 the 2017 settlement that resulted in the</p> <p>16 \$150 million fine that McKesson paid,</p> <p>17 correct?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 THE WITNESS: It was one of the</p> <p>20 allegations that led to the ultimate</p> <p>21 settlement.</p> <p>22 QUESTIONS BY MR. RAFFERTY:</p> <p>23 Q. Right.</p> <p>24 That you -- that McKesson</p> <p>25 accepted responsibility for, correct?</p> | <p>1 A. I don't know if both of them</p> <p>2 were 12 months, but we're using the</p> <p>3 dispensing amounts, yeah.</p> <p>4 Q. Okay. The max dispensing</p> <p>5 amount.</p> <p>6 A. Yeah.</p> <p>7 Q. And then adding a buffer, as</p> <p>8 it's referred to, right?</p> <p>9 A. Correct.</p> <p>10 Q. And in one it was a 20 percent</p> <p>11 buffer and one it was a 25 percent buffer,</p> <p>12 right?</p> <p>13 A. Uh-huh.</p> <p>14 Q. Okay. And then rounding up to</p> <p>15 the nearest 500 in addition to the buffer?</p> <p>16 A. Right.</p> <p>17 Q. Okay. So I just want to</p> <p>18 reorient us. If we could take a look at</p> <p>19 Exhibit 54 that you've got there, which is a</p> <p>20 letter from the US Attorney, District of</p> <p>21 Colorado, dated August 13, 2014.</p> <p>22 That's -- this is the one that</p> <p>23 was right in the middle of the two -- the</p> <p>24 date that was in the middle of the two</p> <p>25 e-mails that we were discussing.</p> |

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| <p>1 You recall that?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So this is August 2014.</p> <p>4 If we look at page .11, please,</p> <p>5 what he's -- what he's being critical of, and</p> <p>6 the allegation in here in terms of the</p> <p>7 McKesson-Aurora manipulated and circumvented</p> <p>8 thresholds is, first he says,</p> <p>9 "McKesson-Aurora set its initial thresholds</p> <p>10 for its pharmacy customers very high.</p> <p>11 McKesson-Aurora's review process was not even</p> <p>12 triggered," meaning the threshold -- a</p> <p>13 threshold excursion, right?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 QUESTIONS BY MR. RAFFERTY:</p> <p>16 Q. "The process was -- the review</p> <p>17 process was not even triggered until an</p> <p>18 individual pharmacy sold more than 10 percent</p> <p>19 of that pharmacy's average volume for a</p> <p>20 12-month period from 2007 to 2008."</p> <p>21 You see that?</p> <p>22 A. I see that.</p> <p>23 Q. Okay. So if we look at that,</p> <p>24 what he's saying there is there was a 10</p> <p>25 percent buffer built in over the pharmacy's</p> | <p>1 Q. Okay. Now, if we go back to</p> <p>2 your July 2014 e-mail, which is exhibit -- it</p> <p>3 should be one of the just last couple but --</p> <p>4 I think 55. 55, I'm sorry.</p> <p>5 This is July 23, 2014, and this</p> <p>6 is the one where you asked, "Do we really</p> <p>7 want to be lowering thresholds right now?"</p> <p>8 Do you see that?</p> <p>9 A. I see that.</p> <p>10 Q. Now, during this time period in</p> <p>11 2014, do you know -- when you're asking that</p> <p>12 question about lowering thresholds, do you</p> <p>13 know what's going on in the country in terms</p> <p>14 of the opioid epidemic?</p> <p>15 A. I do.</p> <p>16 Q. Okay. In fact, it was during</p> <p>17 this same time period we looked at the</p> <p>18 document in 2014 that said that a person was</p> <p>19 dying in the United States from an opioid</p> <p>20 overdose every 19 minutes, right?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 THE WITNESS: Agree.</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. So while you are asking the</p> <p>25 question, should we be lowering thresholds,</p> |
| Page 211 | Page 213 |
| <p>1 average volume from a 12-month period, right?</p> <p>2 A. Correct.</p> <p>3 Q. Which is lower than the 20 to</p> <p>4 25 percent buffer you used. And this uses an</p> <p>5 average volume from a 12-month period, which</p> <p>6 is lower than the max value for a month in</p> <p>7 the prior 12 months, right?</p> <p>8 A. Correct. This is purchasing</p> <p>9 versus dispensing in mine.</p> <p>10 Q. So this is actually a lower</p> <p>11 formula than what you were using, and what he</p> <p>12 is alleging is the manipulation of the</p> <p>13 thresholds; isn't that right?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 THE WITNESS: The percentages</p> <p>16 are, but, again, this is off of</p> <p>17 purchasing versus dispensing, which</p> <p>18 are two different things.</p> <p>19 QUESTIONS BY MR. RAFFERTY:</p> <p>20 Q. Right. I understand that.</p> <p>21 A. Right.</p> <p>22 Q. But here it's a 10 percent</p> <p>23 buffer, and it's the average of the 12-month</p> <p>24 period, right?</p> <p>25 A. Correct.</p> | <p>1 which is the very mechanism by which you</p> <p>2 trigger the investigation and the review for</p> <p>3 suspicious orders, and you're saying should</p> <p>4 we be lowering them and doing that, people</p> <p>5 are dying from opioids, right?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 THE WITNESS: I understand</p> <p>8 people are dying from opiates.</p> <p>9 QUESTIONS BY MR. RAFFERTY:</p> <p>10 Q. And they're dying while you're</p> <p>11 asking the question about whether we should</p> <p>12 be lowering thresholds, right?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: My asking of that</p> <p>15 question or in -- just in general</p> <p>16 is -- there's reasons why it may --</p> <p>17 lowering thresholds, based on the</p> <p>18 facts and circumstances, may prevent</p> <p>19 legitimate dispensing.</p> <p>20 The idea is to make sure we</p> <p>21 know what the business model change</p> <p>22 might be and we account for legitimate</p> <p>23 dispensing.</p> <p>24 QUESTIONS BY MR. RAFFERTY:</p> <p>25 Q. One of the reasons -- one of</p> |

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| <p>1 the things that happens when you lower 2 thresholds is it increases omit reports and 3 it increases oversight into the purchasing 4 and helps identify suspicious orders, right? 5 MS. HENN: Objection to form. 6 QUESTIONS BY MR. RAFFERTY: 7 Q. Isn't that one of the things it 8 does? 9 MS. HENN: Objection to form. 10 THE WITNESS: Can you restate 11 that question for me, please? 12 QUESTIONS BY MR. RAFFERTY: 13 Q. Yeah. 14 One of the results of lowering 15 thresholds are an increase in omit reports, 16 meaning stops -- where it says, hey, listen, 17 there's a -- there's a -- there's a red flag 18 here, and so you need to look into this and 19 see if it's a suspicious order, right? 20 MS. HENN: Objection to form. 21 THE WITNESS: Right, it can 22 cause -- lowered thresholds could 23 cause omits. 24 QUESTIONS BY MR. RAFFERTY: 25 Q. It can cause omits. And if you</p> | <p>1 MS. HENN: Objection to form. 2 THE WITNESS: I know that 3 people are dying during that time. 4 QUESTIONS BY MR. RAFFERTY: 5 Q. Because of the opioid epidemic, 6 true? 7 A. True. 8 Q. The drugs that you're selling? 9 MS. HENN: Objection to form. 10 THE WITNESS: The types of 11 drugs we sell. 12 QUESTIONS BY MR. RAFFERTY: 13 Q. And the threshold are one 14 method -- lowering thresholds would be one 15 method within which to combat the diversion 16 of drugs, of the opioid drugs, right? 17 A. It can. Lowering thresholds 18 can limit the ability to get -- for 19 legitimate reasons cause omits that 20 statistically may not be -- should be omits. 21 Q. Well, all that does is require 22 you to look into it, right? It's just a 23 little more work on McKesson's part. If it 24 turns out the omit should -- it should go 25 through, then it goes through, right?</p> |
| <p>Page 215</p> <p>1 have an omit, it triggers an analysis and an 2 investigation as to whether the order is 3 suspicious and therefore subject to being 4 diverted into illegal purposes, right? 5 MS. HENN: Objection to form. 6 THE WITNESS: As part of the 7 previous program, the CSMP -- 8 QUESTIONS BY MR. RAFFERTY: 9 Q. Correct. 10 The program we're talking about 11 and the program that resulted in the 2017 12 settlement, right, that was involved in the 13 2017 settlement and the \$150 million fine? 14 MS. HENN: Objection to form. 15 THE WITNESS: Parts of that 16 program. 17 QUESTIONS BY MR. RAFFERTY: 18 Q. Yes. 19 A. Yeah. 20 Q. So when you are questioning 21 lowering thresholds, you know at the time 22 that you're writing that that people are 23 dying because of the opioid epidemic that the 24 company you're working for, McKesson, is 25 partially responsible for, right?</p> | <p>Page 217</p> <p>1 MS. HENN: Objection to form. 2 THE WITNESS: We look at a 3 variety of other data points as well 4 as part of our program. 5 QUESTIONS BY MR. RAFFERTY: 6 Q. My question was a yes or no. 7 MS. HENN: Objection to form. 8 THE WITNESS: Can you restate 9 your question for me, please? 10 QUESTIONS BY MR. RAFFERTY: 11 Q. If lowering the threshold 12 increases the omit reports, all that requires 13 or entails is more investigation and more 14 research on your part, on McKesson's part, to 15 see whether or not that order is suspicious, 16 right? 17 MS. HENN: Objection to form. 18 QUESTIONS BY MR. RAFFERTY: 19 Q. You can release it ultimately; 20 you just have to look at it, right? 21 MS. HENN: Objection to form. 22 THE WITNESS: I don't 23 understand the question specifically, 24 what you're trying to --</p> |

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| <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. Well, you're saying it can</p> <p>3 result in more omit reports, lowering the</p> <p>4 threshold.</p> <p>5 A. It could.</p> <p>6 Q. The upside of having more omit</p> <p>7 reports is it gives you more oversight</p> <p>8 because you're looking into the actual</p> <p>9 transactions more, right?</p> <p>10 That's the upside, because you</p> <p>11 should be wanting to do that to prevent</p> <p>12 suspicious orders, right?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: That's one of the</p> <p>15 things that we could do to --</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. Right.</p> <p>18 A. -- to look into more.</p> <p>19 Q. Yeah, that's right.</p> <p>20 The downside for McKesson is it</p> <p>21 causes you to do more work. The more omit</p> <p>22 reports, the more level 1 reviews and the</p> <p>23 more you -- the more time you have to spend</p> <p>24 looking at the actual transaction, fair?</p> <p>25 MS. HENN: Objection to form.</p> | <p>1 time frame.</p> <p>2 QUESTIONS BY MR. RAFFERTY:</p> <p>3 Q. Okay. When you get a level</p> <p>4 1 -- you cleared level 1 omit reports or</p> <p>5 investigations very quickly, same day in many</p> <p>6 instances, right?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 THE WITNESS: I'm not -- I was</p> <p>9 not involved in level 1, that CSMP</p> <p>10 process.</p> <p>11 QUESTIONS BY MR. RAFFERTY:</p> <p>12 Q. Okay. But you know that those</p> <p>13 were cleared and, in fact, had as a policy in</p> <p>14 many regards to have it cleared within a day?</p> <p>15 A. Some can be cleared quickly --</p> <p>16 Q. Okay.</p> <p>17 A. -- based on the facts and</p> <p>18 circumstances.</p> <p>19 Q. Right.</p> <p>20 So you can clear it; you just</p> <p>21 have to investigate it, right? You have to</p> <p>22 spend some time looking at it, right?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: Some of them,</p> <p>25 right.</p> |
| <p>1 THE WITNESS: It's -- in all my</p> <p>2 experience, in any decisions I've</p> <p>3 made, I've never factored in and</p> <p>4 thought about workload.</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. I'm just talking about from a</p> <p>7 practical standpoint, if you increase the</p> <p>8 omit reports, the only downside, the only bad</p> <p>9 part of that is you, McKesson, has to do more</p> <p>10 work to look at those omit -- to look at the</p> <p>11 orders, right?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 THE WITNESS: I don't think</p> <p>14 that's the only -- again, I think, you</p> <p>15 know, a downside of not allowing a</p> <p>16 customer to meet their legitimate</p> <p>17 dispensing is they can --</p> <p>18 QUESTIONS BY MR. RAFFERTY:</p> <p>19 Q. Well, you can clear them in</p> <p>20 like a minute, right?</p> <p>21 MS. HENN: Counsel, let's let</p> <p>22 him finish his answer.</p> <p>23 MR. RAFFERTY: Sorry.</p> <p>24 THE WITNESS: That's not how</p> <p>25 the process works today during this</p> | <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. And that's not a bad thing.</p> <p>3 Shouldn't be.</p> <p>4 MS. HENN: Objection to form.</p> <p>5 THE WITNESS: It's not a bad</p> <p>6 thing to use information to -- other</p> <p>7 pieces of information to do due</p> <p>8 diligence.</p> <p>9 QUESTIONS BY MR. RAFFERTY:</p> <p>10 Q. But you only get to that if the</p> <p>11 threshold -- there's a threshold excursion,</p> <p>12 right?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: That's one way to</p> <p>15 trigger a review of a customer.</p> <p>16 (McKesson-Hartle Exhibit 58</p> <p>17 marked for identification.)</p> <p>18 QUESTIONS BY MR. RAFFERTY:</p> <p>19 Q. Okay. Now -- all right.</p> <p>20 Looking at P1.88, this is a copy of the</p> <p>21 administrative memorandum of agreement</p> <p>22 pertaining to the 2017 settlement.</p> <p>23 Have you reviewed this before?</p> <p>24 A. I have.</p> <p>25 Q. Okay. And if you would, please</p> |

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| <p>1 turn to the back page, which is P -- I'm 2 sorry, page 14. Page 14. 3 Oh, I'm sorry, it's 58. I'm 4 sorry, did you -- have you seen this before, 5 Mr. Hartle? 6 A. I have. 7 Q. Okay. If you would, turn to 8 page 14. And if you look over there, the 9 signatures of the acting administrator of the 10 Drug Enforcement Administration and assistant 11 administrator for the Diversion Control 12 Division of DEA; do you see that? 13 A. I see that. 14 Q. And those are dated January 17, 15 2017, right? 16 A. Correct. 17 Q. And that's the date that the 18 agreement was finalized and the \$150 million 19 fine was levied, correct? 20 MS. HENN: Objection to form. 21 THE WITNESS: That's the date. 22 (McKesson-Hartle Exhibit 59 23 marked for identification.) 24 QUESTIONS BY MR. RAFFERTY: 25 Q. Okay. Now, I'm going to show</p> | <p>1 concerns were, "One, that manufacturers would 2 stockpile the product and release it at a 3 higher price; two, McKesson would stockpile 4 and release at a higher price; and three, 5 thresholds would be dramatically cut." 6 Do you see that? 7 MS. HENN: Objection to form. 8 THE WITNESS: I see that. 9 QUESTIONS BY MR. RAFFERTY: 10 Q. Okay. And then if you go up, 11 he says here, "I recommend" -- "I commented 12 that this was part of an effort to take out 13 the 25 percent buffer that was put in place a 14 few years ago but wasn't sure how to respond 15 to their question about impact." 16 Do you see that? 17 A. I see that. I think that -- 18 that 25 percent buffer is not related to our 19 buffers. That's related to -- 20 Q. No, I understand. 21 A. -- the DEA quota, buffer, 22 right. 23 Q. Right. 24 As to how much raw product can 25 be provided to the manufacturers, correct?</p> |
| <p style="text-align: center;">Page 223</p> <p>1 you a copy of what we're going to mark as 2 Exhibit 59, which is an e-mail from 3 January 30, 2017, from you. And if you 4 could, I want -- 5 MR. RAFFERTY: It's 1.1449, 6 Corey. 7 QUESTIONS BY MR. RAFFERTY: 8 Q. What I'd like to do is direct 9 your attention to the bottom e-mail first 10 from Dan Jefferies. 11 Do you see that? 12 A. I do. 13 Q. Do you know Mr. Jefferies? 14 A. I do. 15 Q. Do you recall this e-mail? 16 A. I do not. 17 Q. Okay. It says, "Subject, 18 opioid reductions." 19 Do you see that? 20 A. I see that. 21 Q. Okay. And he's talking about 22 some discussion at a Topco meeting. 23 Do you see that? 24 A. I do. 25 Q. Okay. And he says their</p> | <p style="text-align: center;">Page 225</p> <p>1 A. Correct. 2 Q. And -- but one of their 3 concerns was going to be that thresholds 4 would be drastically cut, right? 5 MS. HENN: Objection to form. 6 THE WITNESS: Say that again? 7 QUESTIONS BY MR. RAFFERTY: 8 Q. One of their concerns was that 9 thresholds would be dramatically cut. 10 MS. HENN: Objection to form. 11 QUESTIONS BY MR. RAFFERTY: 12 Q. I just read it to you. 13 A. Right. I'm just looking. 14 Right. 15 Q. Okay. And Topco, so that we're 16 clear, is one of the national chains, the 17 national accounts, right? 18 A. It's a buying group that has 19 chains associated with it, but it's in our 20 segment. 21 Q. Right. Okay. It's in your 22 segment -- 23 A. Correct. 24 Q. -- under your control -- 25 A. Correct.</p> |

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| <p style="text-align: right;">Page 226</p> <p>1 Q. -- which is why you're 2 discussing this with we. 3 A. Correct. 4 Q. So up here you respond and you 5 say, "You were right in that the reduction 6 was just taking out a buffer, so we have no 7 concerns and do not anticipate any negative 8 impact. This should be a nonissue, so it is 9 business as usual from a threshold 10 perspective."</p> <p>11 Right? That's what you said?</p> <p>12 A. Correct.</p> <p>13 Q. And this is January 30, 2017, 14 right after signing -- this is less than two 15 weeks after signing the memorandum of 16 understanding regarding the \$150 million fine 17 which included allegations in terms of how 18 your thresholds were set, how your -- 19 McKesson's thresholds were set, right?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: That's the 22 timing.</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. Yeah.</p> <p>25 A. Yeah.</p> | <p style="text-align: right;">Page 228</p> <p>1 THE WITNESS: For these 2 customers, yeah.</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. Right. 5 Which includes what we just 6 went through, which was the 25 percent buffer 7 or the 20 percent buffer and the max rounding 8 up and all that, correct?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 THE WITNESS: Logic to 11 determine a threshold for a customer 12 based on their dispensing.</p> <p>13 QUESTIONS BY MR. RAFFERTY:</p> <p>14 Q. Right. 15 The very thing that the DOJ 16 made as part of their -- or that was part of 17 the settlement agreement in 2017, true?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 QUESTIONS BY MR. RAFFERTY:</p> <p>20 Q. True?</p> <p>21 A. I would say it's not the very 22 thing, the exact thing.</p> <p>23 Q. Well, if it's -- if that's 24 being discussed in 2017 as part of the 25 settlement agreement, which it is laid out</p> |
| <p style="text-align: right;">Page 227</p> <p>1 Q. And so within two weeks you're 2 comforting your clients and saying, as far as 3 thresholds -- our thresholds are concerned, 4 it's business as usual, right?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 THE WITNESS: The context of 7 this is that -- the "business as 8 usual" meaning the thresholds have 9 been established for those customers, 10 they're set in a way that allows them 11 to meet their dispensing, and we don't 12 believe that there's going to be an 13 impact to those. And if they -- they 14 have a reason to request an increase, 15 that we'd follow the normal process.</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. Right.</p> <p>18 McKesson is business as usual 19 in regards to the way you set thresholds for 20 your customers, right?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 QUESTIONS BY MR. RAFFERTY:</p> <p>23 Q. That's what you're saying 24 there?</p> <p>25 MS. HENN: Objection to form.</p> | <p style="text-align: right;">Page 229</p> <p>1 into -- or in the agreement, and you're 2 comforting your clients, no -- your 3 customers, don't worry, it's business as 4 usual, right? You're not changing your 5 system of setting your thresholds based on 6 what the DEA's doing, right?</p> <p>7 MS. HENN: Objection.</p> <p>8 QUESTIONS BY MR. RAFFERTY:</p> <p>9 Q. That's what you're telling your 10 customers?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 THE WITNESS: That the quota is 13 not changing our thresholds. (McKesson-Hartle Exhibit 60 marked for identification.)</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. Well, let's look at -- so 18 business as usual from a threshold 19 standpoint.</p> <p>20 Let's look at 1.145.</p> <p>21 Business -- let's see. Let's talk about what 22 business as usual is for the people living in 23 the state of Ohio at this time.</p> <p>24 Part of your job in terms of 25 monitoring what's going on in the country in</p> |

| Page 230 | Page 232 |
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| <p>1 terms of the opioids that you're selling is 2 you're supposed to be monitoring the press 3 articles, things that's going on, because 4 those things can actually trigger suspicious 5 order investigations, can't they?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 THE WITNESS: They can trigger 8 due diligence.</p> <p>9 QUESTIONS BY MR. RAFFERTY:</p> <p>10 Q. Trigger due diligence into 11 investigating whether there's suspicious 12 orders, right?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: Investigating a 15 customer.</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. Investigating a customer.</p> <p>18 Okay. Well, while you're 19 comforting your customer, I want to show -- 20 that it's business as usual from a threshold 21 perspective in January of 2017, during that 22 time period, are you aware of what's going on 23 in the state of Ohio in terms of the numbers 24 of deaths associated with opioids?</p> <p>25 A. I'm aware of the trends. I</p> | <p>1 deaths that were occurring in that state back 2 when you were telling your customers it's 3 business as usual?</p> <p>4 MS. HENN: Objection to form.</p> <p>5 THE WITNESS: I did not know of 6 a death trailer.</p> <p>7 QUESTIONS BY MR. RAFFERTY:</p> <p>8 Q. Okay. Well, let's look and see 9 what it says.</p> <p>10 It says, "It's moot testimony 11 to the opioid addiction plague that has been 12 ravaging Ohio, a 20-foot-long air-conditioned 13 trailer with room for 18 bodies."</p> <p>14 Do you see that?</p> <p>15 A. I do see that.</p> <p>16 Q. "The Stark County coroner in 17 Canton had a cold storage mass casualty 18 trailer trucked in on Saturday because the 19 morgue was overflowing with bodies, nearly 20 half of the victims from drug overdoses."</p> <p>21 Do you see that?</p> <p>22 A. I do.</p> <p>23 Q. Okay. If you turn to .3, this 24 is a picture from inside the death trailer.</p> <p>25 Do you see that?</p> |
| Page 231 | Page 233 |
| <p>1 don't have the specific numbers.</p> <p>2 Q. Well, let me show you what 3 we're going to mark as Exhibit 60, which is 4 P1.1453.</p> <p>5 So here, if you look at the 6 date at the top, it's March 2017.</p> <p>7 You see that?</p> <p>8 A. I do.</p> <p>9 Q. Three months after -- roughly 10 three months after your e-mail, correct, of 11 January 2017?</p> <p>12 A. Three months after.</p> <p>13 Q. So here's what the headline is. 14 Have you ever looked at this article before? 15 You ever seen this?</p> <p>16 A. I don't recognize this one.</p> <p>17 Q. It says -- the headline is, or 18 the title of it is, "Too Many Bodies in Ohio 19 Morgue, So Coroner Gets Death Trailer."</p> <p>20 Have you ever heard that phrase 21 "death trailer"?</p> <p>22 A. I have not.</p> <p>23 Q. Do you know that Ohio, the 24 State of Ohio, had to go out and buy a death 25 trailer because of the number of opioid</p> | <p>1 A. I do.</p> <p>2 Q. And then if you go to .4, and 3 if you look, it says specifically, "Coroners 4 in the counties of Ashtabula and Cuyahoga," 5 which is where Cleveland is located, "have 6 had to deploy the trailers when their morgues 7 became too jammed, he said. The medical 8 examiner in Summit County," where Akron is 9 located, "asked the Ohio department to send 10 one over last summer when there was a spike 11 in drug overdoses, the Akron Beacon Journal 12 reported. Just this year alone, there have 13 been 90 overdose deaths in Stark County and 14 109 in Cuyahoga County, according to the 15 Akron newspaper."</p> <p>16 Did I read that correctly?</p> <p>17 A. You did.</p> <p>18 Q. "But the situation in the rust 19 belt states like Ohio, where the drug 20 overdose rate is 2015, was most -- the most 21 recent federal figures available was 29.9 per 22 100,000 people is especially dire."</p> <p>23 Is that what that says?</p> <p>24 A. It does say that.</p> <p>25 Q. Now, this is in March of 2017.</p> |

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| <p style="text-align: right;">Page 234</p> <p>1 And you're saying even in your position now, 2 which is, if I wrote it down correctly, 3 senior vice -- or vice -- yeah, senior vice 4 president, right? Are you vice president or 5 senior vice president?</p> <p>6 A. Right now?</p> <p>7 Q. Yeah.</p> <p>8 A. Vice president.</p> <p>9 Q. Vice president of regulatory 10 affairs and compliance; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Even in your role as 13 that, and the fact that you've been the 14 director of -- even though you've been the 15 director, the senior director, of regulatory 16 affairs for retail national accounts, you 17 never saw any of that? You never saw that 18 article or heard about Ohio having to hire 19 mobile -- having to hire or buy mobile 20 morgues or death trailers?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 THE WITNESS: I've not seen 23 this specific article. I've certainly 24 read and been aware and read similar 25 articles. Never heard of the term</p> | <p style="text-align: right;">Page 236</p> <p>1 You're familiar with that, 2 right?</p> <p>3 A. I am.</p> <p>4 Q. And here, one of the things it 5 says the DEA is telling you is some factors 6 to consider. "What do the news reports say 7 about the state or geographical area where 8 the controlled substances being sold to," 9 correct?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. So that's part of what 12 you're supposed to be doing; you're supposed 13 to be paying attention to the news reports, 14 right?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 THE WITNESS: We do pay 17 attention --</p> <p>18 QUESTIONS BY MR. RAFFERTY:</p> <p>19 Q. Okay.</p> <p>20 A. -- attention to them, yes.</p> <p>21 Q. You do?</p> <p>22 A. Yes.</p> <p>23 Q. How do you pay attention to 24 them?</p> <p>25 A. I have different feeds and</p> |
| <p style="text-align: right;">Page 235</p> <p>1 "death trailer" that I can recall. 2 (McKesson-Hartle Exhibit 48 3 marked for identification.)</p> <p>4 QUESTIONS BY MR. RAFFERTY:</p> <p>5 Q. If we look now at 6 Exhibit 1153 -- you got it? I already marked 7 these -- which is -- I'm sorry, is marked 8 Exhibit 48.</p> <p>9 And if you turn to page -- this 10 is the -- just so the -- we identify the 11 document, it's P1.1153, and it is from the 12 DEA, "Effective controls against diversion."</p> <p>13 Have you seen this before?</p> <p>14 You know what? I withdraw the 15 question. Let's just go to .44.</p> <p>16 A. I'd still like to take a quick 17 peek. I want to see...</p> <p>18 Q. Okay. Go to .44, please.</p> <p>19 You there?</p> <p>20 A. Almost. .44. Okay.</p> <p>21 Q. Remember we talked earlier 22 about one of your responsibilities the DEA 23 expected you -- one of the things that the 24 DEA expected of McKesson as a distributor was 25 to know your customers?</p> | <p style="text-align: right;">Page 237</p> <p>1 monitor news and read news all the time.</p> <p>2 Q. Okay. So just you, like when 3 you're watching CNN in the morning, or do you 4 have actually a system set up where 5 opioid-related articles that come up as a 6 result of -- in states that you're selling to 7 are brought to you?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: I personally have 10 different predesigned searches on my 11 own. Our teams across the country 12 review reports as well, so we review 13 different news articles.</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. So there's not a particular 16 system or policy set up at McKesson to review 17 various -- just each individual is supposed 18 to kind of monitor it, right?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: Generally.</p> <p>21 QUESTIONS BY MR. RAFFERTY:</p> <p>22 Q. Okay. So what this says is 23 you're supposed to watch what the news 24 reports are saying.</p> <p>25 And then the second bullet</p> |

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| <p>1 point is, "Is there a problem with controlled 2 substances in this particular state? If so, 3 what is the problem, what are the controlled 4 substances involved," right? 5 A. That's what it says. 6 Q. Okay. Having to hire a -- or 7 having to buy a death trailer would probably 8 indicate that there's a problem with 9 controlled substances in that state, right? 10 MS. HENN: Objection to form. 11 THE WITNESS: Right. You 12 shouldn't have to do that in a -- in 13 a --</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. No. 16 A. No. 17 Q. And it's in the news reports, 18 something you're supposed to be watching out 19 for, right? 20 A. It's in the news reports. 21 Q. Okay. So when you're telling 22 people it's business as usual at McKesson in 23 regards to thresholds, in terms of lowering 24 thresholds, comforting them, the business as 25 usual in the state of Ohio for the morgues is</p> | <p>1 out. 2 MR. RAFFERTY: Okay. Well, 3 let's take five minutes and just get 4 it on. 5 MS. HENN: Let's go off the 6 record for a second. 7 VIDEOGRAPHER: The time is 8 1:30 p.m., and we're going off the 9 record. 10 (Off the record at 1:29 p.m.) 11 VIDEOGRAPHER: The time is 12 1:32 p.m., and we're back on the 13 record. 14 QUESTIONS BY MR. RAFFERTY: 15 Q. All right. Let's -- all right. 16 Let's look at what else is going on. 17 During 2014, there were some -- 18 you're familiar with HDMA. We talked a 19 little bit about that earlier, right? 20 A. I am. 21 Q. That's your trade organization? 22 A. Right. Correct. 23 (McKesson-Hartle Exhibit 61 24 marked for identification.)</p> |
| <p>1 they're trying to find a place to store the 2 bodies, right? 3 MS. HENN: Objection to form. 4 THE WITNESS: My context for 5 business as usual is that's me 6 communicating with somebody 7 internally, and again, as we talked 8 about, means that we're not changing 9 thresholds based on purely that quota. 10 QUESTIONS BY MR. RAFFERTY: 11 Q. Well, you're communicating 12 internally to somebody to convey that to one 13 of your big customers: Don't worry, it's 14 business as usual in regards to thresholds. 15 That's what you're doing, 16 right? 17 MS. HENN: Objection to form. 18 QUESTIONS BY MR. RAFFERTY: 19 Q. That's what it says? 20 MS. HENN: Objection to form. 21 THE WITNESS: Conveying that we 22 have processes to request increases 23 and how we manage our thresholds. 24 MS. HENN: Pardon me, Counsel. 25 My realtime -- oh, and the phone cut</p> | <p>1 Page 239 2 QUESTIONS BY MR. RAFFERTY: 3 Q. Okay. And if we look at 1490, 4 which will be Exhibit 61 to the depo. 5 So this is right around the 6 time you're starting at McKesson, right, May 7 2014? 8 A. In 2014. 9 Q. Okay. "SGAC annual meeting." 10 Do you see that? 11 A. I see that. 12 Q. And what is that; do you know? 13 A. I don't know. 14 Q. It says "HDMA" down at the 15 bottom, Healthcare Distribution Management 16 Association. You guys are on the -- you 17 guys. You're -- McKesson is on the executive 18 committee of that, right? 19 A. Correct. 20 Q. Okay. And it says, if you look 21 at point 2, "HDMA state government affairs 22 capabilities, prepared for the HDMA executive 23 committee expense working group." 24 Do you see that? 25 A. I do see that. Q. And one of the things, if you</p> |
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| <p>1 turn over a couple of pages to .4, one of the 2 things it says is, "Challenges on the 3 horizon: State efforts to address, reduce, 4 prevent prescription abuse and diversion." 5 Do you see that? 6 A. I see that. 7 Q. Okay. So your trade 8 organization that you're on the executive 9 committee sees states' efforts to reduce and 10 prevent diversion as a challenge to your 11 business, right? 12 MS. HENN: Objection to form. 13 QUESTIONS BY MR. RAFFERTY: 14 Q. Not as an opportunity but as a 15 challenge? 16 MS. HENN: Same objection. 17 THE WITNESS: I don't know what 18 the speaking points are, but it's on 19 the challenge slide. 20 QUESTIONS BY MR. RAFFERTY: 21 Q. Okay. Well, you should welcome 22 that, right? McKesson should welcome the 23 involvement of any organization, government, 24 private or otherwise, to help reduce 25 diversion, right?</p> | <p>1 MR. RAFFERTY: Is it 47? No, 2 no, no. It's already -- no. No. I 3 was saying it's previously been 4 marked. It's your presentation notes. 5 THE WITNESS: Oh. 6 MS. HENN: Oh, I see what 7 you're saying. 8 MR. RAFFERTY: Yeah. 9 MS. HENN: Pardon me. 10 MR. RAFFERTY: We had just 11 skipped the number 48 because I took 12 it out of order. 13 MS. HENN: Understood. 14 QUESTIONS BY MR. RAFFERTY: 15 Q. So if we look at -- if we look 16 at slide 7, "Abuse trends, overdose deaths." 17 Do you see that, .7? 18 A. I see that. 19 Q. "This next slide shows a map 20 related to overdose deaths by state in 2010 21 that was shared at a meeting with ONDCP, and 22 similar ones can be found in different 23 diversion materials. The reason we share 24 this is because the death rates are alarming 25 and are getting a lot of attention in</p> |
| <p>1 MS. HENN: Objection to form. 2 THE WITNESS: We do. 3 QUESTIONS BY MR. RAFFERTY: 4 Q. Shouldn't be looked at as a 5 challenge or an obstacle, certainly, should 6 it? 7 A. There can be challenges with, 8 you know, changing of systems and things that 9 have to be done. I'm just speculating that 10 could be an example. 11 Q. Okay. Well, let's see what -- 12 14.55, please. This is already 47. 13 MS. HENN: Counsel, one note. 14 This document was labeled Exhibit 48 15 on the actual document, which I'm not 16 sure is right. 17 MR. RAFFERTY: You know, I 18 know, because I went to mark it and 19 then I set it aside, so... 20 MS. HENN: At a break or 21 something. Okay. 22 MR. RAFFERTY: All right. So 23 this is already Exhibit 47 that I'm 24 looking at now. 25 MS. HENN: Okay.</p> | <p>1 states." 2 You agree with that, right? 3 A. Correct. 4 Q. The death rates were alarming, 5 and states and state governments were 6 starting to taking notice and are starting 7 to -- are starting to crack down, correct? 8 A. And get involved, yes. 9 Q. Okay. "States are beginning to 10 react heavily to this trend, and you can 11 expect to see continued activity from elected 12 officials and state Boards of Pharmacy." 13 Right? 14 A. Correct. 15 Q. Okay. Now, the fact of the 16 matter is is you did start seeing, for 17 example, different states and state Boards of 18 Pharmacy cracking down and trying to make 19 sure and reduce diversion through their 20 states, correct? 21 MS. HENN: Objection to form. 22 THE WITNESS: Could you ask 23 that again? 24 QUESTIONS BY MR. RAFFERTY: 25 Q. Yeah.</p> |

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| <p style="text-align: right;">Page 246</p> <p>1 You did see that --</p> <p>2 A. Yeah.</p> <p>3 Q. -- going forward, states and</p> <p>4 state Boards of Pharmacy being much -- being</p> <p>5 proactive in trying to make sure and enforce</p> <p>6 laws to prevent diversion, right?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 THE WITNESS: Yes, states were</p> <p>9 being more proactive.</p> <p>10 QUESTIONS BY MR. RAFFERTY:</p> <p>11 Q. Okay. In fact, the Ohio State</p> <p>12 Board of Pharmacy has been very critical in</p> <p>13 the past of McKesson's activities as it</p> <p>14 relates to preventing diversion, hasn't it?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 THE WITNESS: I'm not aware of</p> <p>17 the specific --</p> <p>18 QUESTIONS BY MR. RAFFERTY:</p> <p>19 Q. You don't recall in 2017 the</p> <p>20 state -- the Ohio State Board of Pharmacy</p> <p>21 writing to you and telling you about why --</p> <p>22 asking why several suspicious orders were</p> <p>23 never being reported to them?</p> <p>24 MS. HENN: Objection to form.</p> <p>25 THE WITNESS: I'm not recalling</p> | <p style="text-align: right;">Page 248</p> <p>1 So if you turn to page 4, it</p> <p>2 says, "Observation." Now, this is nine</p> <p>3 months after the 2017 settlement, right,</p> <p>4 which was in October of 2017, so nine months</p> <p>5 later, right?</p> <p>6 A. Yeah, later in the year.</p> <p>7 Q. Okay. "Observation: A review</p> <p>8 of wholesale sale data reported to the Ohio</p> <p>9 State Board of Pharmacy for drugs containing</p> <p>10 hydrocodone 10 milligrams, oxycodone</p> <p>11 10 milligrams and oxycodone 30 milligrams</p> <p>12 indicated that many sales appeared to be of</p> <p>13 unusual size, unusual frequency, or that</p> <p>14 deviate substantially from established buying</p> <p>15 patterns but were not reported to the Board</p> <p>16 of Pharmacy as suspicious orders."</p> <p>17 Do you see that?</p> <p>18 A. I see that.</p> <p>19 Q. "Specifically, we observed</p> <p>20 spikes in sales for specific months and a</p> <p>21 high volume of sales that continue to</p> <p>22 increase over time to specific pharmacies.</p> <p>23 See referenced sales in the attached</p> <p>24 spreadsheet."</p> <p>25 Do you see that?</p> |
| <p style="text-align: right;">Page 247</p> <p>1 the documents or the letter</p> <p>2 specifically.</p> <p>3 (McKesson-Hartle Exhibit 62</p> <p>4 marked for identification.)</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. You don't recall that.</p> <p>7 Okay. 1.1457. This will be</p> <p>8 Exhibit 62.</p> <p>9 Okay. As we look at</p> <p>10 Exhibit 62, Mr. Hartle, this is October 20,</p> <p>11 2017, and it's from the State of Ohio Board</p> <p>12 of Pharmacy.</p> <p>13 Do you see that?</p> <p>14 A. I see that.</p> <p>15 Q. And it's to McKesson</p> <p>16 Corporation. And it says,</p> <p>17 "Wholesaler/manufacturer category 3,</p> <p>18 wholesale distributor inspection, October 20,</p> <p>19 2017, written response required."</p> <p>20 That's a serious -- that's a</p> <p>21 serious thing, you would agree, right?</p> <p>22 MS. HENN: Objection to form.</p> <p>23 THE WITNESS: This is serious.</p> <p>24 QUESTIONS BY MR. RAFFERTY:</p> <p>25 Q. This is serious, yeah.</p> | <p style="text-align: right;">Page 249</p> <p>1 A. I see that.</p> <p>2 Q. So if we look over on the last</p> <p>3 page, one of those at the top is the Lewis</p> <p>4 Drugstore, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Jackson, oxycodone 10, high</p> <p>7 monthly average sales at 12,500.</p> <p>8 Do you see that?</p> <p>9 A. I see that.</p> <p>10 Q. Did you investigate, for</p> <p>11 example, what the population was in Jackson?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 THE WITNESS: I'm not aware</p> <p>14 of -- I don't recall anything about</p> <p>15 this document or this list.</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. So you've never seen this</p> <p>18 before?</p> <p>19 A. I don't recall it. I can't say</p> <p>20 I've never seen it.</p> <p>21 (McKesson-Hartle Exhibit 63</p> <p>22 marked for identification.)</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. Let me show you 1456.</p> <p>25 Now this was, what, nine months</p> |

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| <p>1 ago, right? Roughly? It's October 2017. 2 What is that, nine, ten months ago? 3 A. Right. 4 Q. And I'll hand you what's been 5 marked as 63. 6 So here we are on October 20, 7 2017, Nate Hartle. That's an e-mail from 8 you, right? 9 A. Correct. 10 Q. And if we go all the way down 11 to the bottom, this is forwarding the 12 government contact OBOP WCH. 13 Do you see that? 14 A. Right. 15 Q. All right. And up at the 16 top -- or in the middle, I'm sorry, it says 17 there are a few Rite Aids on here. 18 Do you see that? 19 A. I see that. 20 Q. BT -- BR 3536705, for example? 21 A. Right. Three DEA registration 22 numbers and three Rite Aid store numbers. 23 Q. Right. 24 And so if we look at those, 25 you'll see that those are listed on the</p> | <p>1 just forgot this one? 2 MS. HENN: Objection to form. 3 THE WITNESS: We receive 4 different ones. I just don't happen 5 to recall this specific one. 6 QUESTIONS BY MR. RAFFERTY: 7 Q. Okay. And in fact, this 8 specific one in 2017, this is -- I mean, you 9 have been -- as we've discussed in 2008 and 10 in 2017, throughout that entire time period 11 there have been multiple, multiple times that 12 you have been investigated by federal and 13 state governments for failing to report 14 suspicious orders. 15 You would agree with that, 16 right? 17 MS. HENN: Objection to form. 18 THE WITNESS: Two different 19 settlements. 20 QUESTIONS BY MR. RAFFERTY: 21 Q. Right. 22 But also state Boards of 23 Pharmacies, right? 24 MS. HENN: Objection to form. 25 THE WITNESS: What's the</p> |
| <p style="text-align: center;">Page 251</p> <p>1 spreadsheet, right? 2 A. Correct. 3 Q. So -- and it says here, "There 4 are a few Rite Aids on here" -- going to list 5 them -- "we might need to discuss this one, 6 as the Ohio BOP isn't just asking for records 7 but is also requesting an explanation for why 8 certain orders at these locations were not 9 reported as suspicious." 10 And then up at the top you 11 respond, saying, "Here are the workbooks, 12 just looking at January '16 through September 13 '17 so we have them. I wouldn't necessarily 14 start to work on any of this yet." 15 So you received this report, 16 correct? 17 A. Now I -- yeah, this is part of 18 our process when we -- when we do 19 event-triggered-type reviews. 20 Q. Okay. So, in fact, you 21 received -- so you don't remember it. 22 Were so many Board of 23 Pharmacies from throughout the country 24 contacting you because of increase -- or for 25 failing to report suspicious orders that you</p> | <p style="text-align: center;">Page 253</p> <p>1 question again? 2 QUESTIONS BY MR. RAFFERTY: 3 Q. You've been investigated by 4 state Boards of Pharmacy for the same conduct 5 as well? 6 MS. HENN: Objection to form. 7 QUESTIONS BY MR. RAFFERTY: 8 Q. For failing to report 9 suspicious orders? 10 MS. HENN: Objection to form. 11 THE WITNESS: Some. 12 (McKesson-Hartle Exhibit 64 13 marked for identification.) 14 QUESTIONS BY MR. RAFFERTY: 15 Q. Okay. In fact, let's look 16 at -- sorry about that. 17 Let me direct you now to 1463, 18 because I think if we -- we looked. We were 19 talking about the Lewis Drugstore in Jackson, 20 high monthly average sales of 12,500, right? 21 MS. HENN: Objection to form. 22 QUESTIONS BY MR. RAFFERTY: 23 Q. All right. Marking Exhibit 64. 24 This is marked P1.1463. And if 25 you'll see, this is some demographics. And</p> |

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| <p style="text-align: right;">Page 254</p> <p>1 what it says here is there are 6,252 people 2 as a population for Jackson, Ohio. 3 Do you see that? 4 MS. HENN: Objection to form. 5 QUESTIONS BY MR. RAFFERTY: 6 Q. I'm sorry, it's on page 3. 7 Sorry. .3, population. 8 A. Down here, okay, I see it. 9 Q. 6,252, right? 10 A. I see that. 11 Q. Okay. And that means -- so 12 that means, going back now to the exhibit 13 from the Board of Pharmacy on page 5, the 14 monthly sales were averaging 12,500 doses, 15 right? 16 MS. HENN: Objection to form. 17 QUESTIONS BY MR. RAFFERTY: 18 Q. You see that? For oxy 10? 19 Sorry, I'll give you a minute 20 to get there. 21 A. 12.5, I see that. 22 Q. Just for oxy 10, right? 23 A. Correct. 24 Q. So that's almost two pills for 25 every person that lives in the City of</p> | <p style="text-align: right;">Page 256</p> <p>1 QUESTIONS BY MR. RAFFERTY: 2 Q. Okay. And as I said before, 3 this isn't -- there have been -- there was in 4 2008 a settlement that we talked a little bit 5 about earlier involving the failure for -- a 6 failure of McKesson to report suspicious 7 orders of its narcotics, right? 8 MS. HENN: Objection to form. 9 THE WITNESS: I apologize. Can 10 you say that one again? 11 QUESTIONS BY MR. RAFFERTY: 12 Q. 2008 -- 13 A. 2008. 14 Q. -- there was a settlement 15 involving McKesson with allegations that it 16 failed to report suspicious orders, right? 17 A. Allegations that it failed to 18 report, that's correct. 19 (McKesson-Hartle Exhibit 65 20 marked for identification.) 21 QUESTIONS BY MR. RAFFERTY: 22 Q. Okay. If we could look now at 23 1.889, which will be Exhibit 65. 24 This is a copy of the 25 settlement and release agreement and</p> |
| <p style="text-align: right;">Page 255</p> <p>1 Jackson was being shipped there monthly by 2 McKesson, right? 3 A. Doing that basic math, but we 4 don't know the full context of the servicing 5 population in the county and how many 6 pharmacies and the like, right. 7 Q. And we know -- well, we do know 8 a couple of things. We know when the Board 9 of Pharmacy flagged it as a suspicious order 10 and, number two, we do know the number of 11 doses that were being sent -- were being sold 12 out of that store on average, and we do know 13 the population, right? Those are facts we do 14 know? 15 MS. HENN: Objection to form. 16 THE WITNESS: We do know those. 17 QUESTIONS BY MR. RAFFERTY: 18 Q. And the last fact we know is 19 that McKesson didn't report this to the Board 20 of Pharmacy as a suspicious order. We know 21 that, too, right? 22 MS. HENN: Objection to form. 23 THE WITNESS: That's what 24 they're stating in the report. 25</p> | <p style="text-align: right;">Page 257</p> <p>1 administrative memorandum of agreement from 2 the 2008 settlement. 3 Do you see that? 4 A. I do see that. 5 Q. Okay. Now, if we turn to -- I 6 just want to make a list here. 7 Now, this resulted in the 8 \$13.25 million fine, right? 9 A. Correct. 10 MR. RAFFERTY: Okay. So if I 11 could have a piece of paper, Carol. 12 QUESTIONS BY MR. RAFFERTY: 13 Q. So if we look over on 14 page .2 -- not .2 -- on page -- Bates 15 stamp -- you see the Bates number down at the 16 bottom? 17 A. Yeah. 18 Q. 1060 is the page we need to go 19 to. Sorry, mine is not numbered. 20 All right. So this 2008 21 involved -- and it says, "Covered Conduct." 22 Covered conduct involved in this, in the -- 23 involved, A, within the District of Maryland, 24 and it involved McKesson-Landover. 25 Do you see that?</p> |

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| <p>1 A. Yes.</p> <p>2 Q. So that's Landover, Maryland.</p> <p>3 And in Landover, Maryland, they</p> <p>4 allege that there was approximately 3 million</p> <p>5 dosage units of hydrocodone sold to New Care</p> <p>6 Pharmacy in Baltimore, and failed to report</p> <p>7 these as suspicious orders to the DEA when</p> <p>8 discovered, right?</p> <p>9 MS. HENN: Objection to form.</p> | <p>1 That's what it says, correct?</p> <p>2 A. That's what it says.</p> <p>3 Q. F -- or I'm sorry, E. "Within</p> <p>4 the District of Utah, from January 2005</p> <p>5 through October 2007, McKesson-Salt Lake City</p> <p>6 sold approximately 824,000 dosage units of</p> <p>7 hydrocodone, oxycodone and fentanyl and</p> <p>8 methadone to the Blackfeet Clinic in</p> <p>9 Browning, Montana, and failed to report these</p> <p>10 sales as suspicious orders."</p> |
| <p>10 QUESTIONS BY MR. RAFFERTY:</p> <p>11 Q. That's what it says?</p> <p>12 A. That's what it says.</p> <p>13 Q. All right. And then it goes on</p> <p>14 and lists some other violations and failure</p> <p>15 to report suspicious orders in that same</p> <p>16 McKesson-Landover distribution center, right?</p> <p>17 MS. HENN: Objection to form.</p> <p>18 THE WITNESS: Right, there's</p> <p>19 others listed.</p> | <p>11 Is that right?</p> <p>12 A. That's what it says.</p> <p>13 Q. Okay. "Within the Eastern</p> <p>14 District of California, from October 2007</p> <p>15 through June 2007, McKesson-West Sacramento</p> <p>16 suffered theft and significant loss of</p> <p>17 controlled substances on 28 separate</p> <p>18 occasions and failed to timely submit</p> <p>19 required theft and loss reports to the DEA."</p> <p>20 Do you see that?</p> |
| <p>20 QUESTIONS BY MR. RAFFERTY:</p> <p>21 Q. Okay. And then second, letter</p> <p>22 B down there is, "Within the middle district</p> <p>23 of Florida, in October 2005,</p> <p>24 McKesson-Lakeland sold approximately</p> <p>25 2.1 million dosage units of hydrocodone to</p> | <p>21 A. That's what it says as well.</p> <p>22 Q. And if you turn to page --</p> <p>23 Bates number ending 1062, so a couple pages</p> <p>24 over, "Terms and Conditions." And it lists</p> <p>25 out the way the 13.25 million got calculated,</p> |
| <p style="text-align: center;">Page 259</p> <p>1 seven pharmacies in the Tampa area and failed</p> <p>2 to report these as suspicious orders."</p> <p>3 Right?</p> <p>4 MS. HENN: Objection to form.</p> <p>5 THE WITNESS: That's what it</p> <p>6 says.</p> <p>7 QUESTIONS BY MR. RAFFERTY:</p> <p>8 Q. Okay. C is, "From February to</p> <p>9 September 2007, McKesson-Conroe sold</p> <p>10 approximately 2 million dosage units of</p> <p>11 hydrocodone."</p> <p>12 That's Conroe, Texas, right?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. It says "within the Southern</p> <p>16 District of Texas"?</p> <p>17 MS. HENN: Objection to form.</p> <p>18 THE WITNESS: Correct.</p> <p>19 QUESTIONS BY MR. RAFFERTY:</p> <p>20 Q. And then turning the page:</p> <p>21 "Within the District of Colorado, from</p> <p>22 September 2005 through November 2007,</p> <p>23 McKesson-Aurora sold large quantities of</p> <p>24 hydrocodone to three Colorado pharmacies and</p> <p>25 failed to report these as suspicious orders."</p> | <p style="text-align: center;">Page 261</p> <p>1 right?</p> <p>2 A. It does.</p> <p>3 Q. Okay. It goes through all</p> <p>4 those.</p> <p>5 Now, as a result of this 2008</p> <p>6 settlement, McKesson agreed to do certain</p> <p>7 things, didn't they, and improve and to start</p> <p>8 reporting suspicious orders to the</p> <p>9 headquarters of the DEA, right?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 THE WITNESS: They did.</p> <p>12 QUESTIONS BY MR. RAFFERTY:</p> <p>13 Q. Okay. In fact, it also says,</p> <p>14 "McKesson represents that it's taking -- it</p> <p>15 has taken good faith actions to detect and</p> <p>16 prevent diversion, including agreeing to</p> <p>17 implement the policies and procedures that</p> <p>18 are subject of an administrative settlement</p> <p>19 agreement between it and DEA dated May 2,</p> <p>20 2008."</p> <p>21 And then if you turn to the</p> <p>22 first page, that discusses some of the items</p> <p>23 that they have discussed, and in particular</p> <p>24 if you turn to Bates number page ending 1050.</p> <p>25 And it goes on and says,</p> |

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| Page 262 | Page 264 |
| <p>1 "Obligations" -- under terms and conditions. 2 "Obligations of McKesson. McKesson agrees to 3 maintain a compliance program designed to 4 detect and prevent diversion of controlled 5 substances as required under the CSA and 6 applicable DEA regulations."</p> <p>7 Do you see that?</p> <p>8 A. I see that.</p> <p>9 Q. "This program shall include 10 procedures to review orders for controlled 11 substances. Orders that exceed established 12 thresholds and criteria will be reviewed by a 13 McKesson employee trained to detect 14 suspicious orders."</p> <p>15 Did I read that correctly?</p> <p>16 A. Yes.</p> <p>17 Q. "Such orders should not be 18 filled" -- I'm sorry, I missed a part 19 there -- "will be reviewed by a McKesson 20 employee trained to detect suspicious orders 21 for the purpose of determining whether, one, 22 such orders should be not filled and reported 23 to the DEA, or based on a detailed review, 24 the order is for legitimate purposes and the 25 controlled substances are not likely to be</p> | <p>1 talk about "the obligations undertaken in 2 this paragraph do not fulfill the totality of 3 its obligations to maintain effective 4 controls against diversion."</p> <p>5 Do you see that?</p> <p>6 A. I see that.</p> <p>7 Q. Okay. So as a result of the 8 2008 settlement agreement, not only did you 9 pay a fine, but you also agreed to start 10 reporting -- have a system in place and 11 report suspicious orders, right?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 THE WITNESS: Correct, one that 14 would be mutually agreed upon with DEA 15 in terms of format.</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. Okay. But in fact, you-all 18 didn't do that, did you, after 2008?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: I don't believe 21 that's correct.</p> <p>22 (McKesson-Hartle Exhibit 66 23 marked for identification.)</p> <p>24 QUESTIONS BY MR. RAFFERTY:</p> <p>25 Q. Okay. Well, let's take a look</p> |
| Page 263 | Page 265 |
| <p>1 diverted into other than legitimate medical, 2 scientific and industrial channels."</p> <p>3 Do you see that?</p> <p>4 A. Yep. That's what it says.</p> <p>5 Q. "Orders identified as 6 suspicious will be reported to the DEA as 7 discussed in Subsection 2."</p> <p>8 And then it says, "This 9 compliance program shall apply to all current 10 and future McKesson distribution centers."</p> <p>11 You see that?</p> <p>12 A. I do.</p> <p>13 Q. Then what this -- what they're 14 referring to there and what you-all did after 15 this was implement that 2008 CSMP, right?</p> <p>16 A. Correct.</p> <p>17 MS. HENN: Objection to form.</p> <p>18 QUESTIONS BY MR. RAFFERTY:</p> <p>19 Q. And that does apply to all 20 current and future McKesson distribution 21 centers, true?</p> <p>22 MS. HENN: Objection to form.</p> <p>23 THE WITNESS: It does.</p> <p>24 QUESTIONS BY MR. RAFFERTY:</p> <p>25 Q. Okay. And then it goes on to</p> | <p>1 at 1.1432. This is Exhibit 66. This is 2 dated November 6, 2013.</p> <p>3 And this -- okay. November 6, 4 2013, United States Department of Justice, 5 William J. Ihlenfeld, II, Northern District 6 of West Virginia.</p> <p>7 Do you recall this letter?</p> <p>8 I mean, you've seen it before, 9 right?</p> <p>10 A. I believe so, yes.</p> <p>11 Q. Okay. And if we go and we look 12 at page 1, at the bottom paragraph it says -- 13 and this is addressed to the lawyers for 14 McKesson, Covington & Burling, and it says, 15 "You are no doubt aware that McKesson entered 16 into a settlement agreement with the United 17 States in May of 2008. The settlement 18 agreement covered the same type of conduct 19 described in the preceding paragraph."</p> <p>20 You see that?</p> <p>21 A. I see that.</p> <p>22 Q. Okay. Now, if we look at the 23 preceding paragraph: "As I indicated in my 24 October 23, 2013 letter to Ms. Seeger, the 25 violations which would form the basis of the</p> |

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| <p style="text-align: right;">Page 266</p> <p>1 government's claims relate to orders filled 2 by McKesson's former Landover, Maryland, 3 distribution facility. The claims for 4 penalties under the federal law, it cites, 5 arise from McKesson's failure to design and 6 operate a system to identify suspicious 7 orders for controlled substances and, more 8 importantly, the failure to report suspicious 9 orders."</p> <p>10 Do you see that?</p> <p>11 A. I see that.</p> <p>12 Q. And then if we go back down to 13 that paragraph -- so that's -- and it says, 14 "The settlement in 2008 included conduct that 15 occurred at the Landover distribution 16 facility."</p> <p>17 That was one of them that was 18 listed, right? I made a list of the 2008 19 organizations.</p> <p>20 MR. RAFFERTY: If I could have 21 the --</p> <p>22 VIDEOGRAPHER: Elmo?</p> <p>23 MR. RAFFERTY: Yeah.</p> <p>24 MS. HENN: Counsel, would you 25 mind marking the demonstrative?</p> | <p style="text-align: right;">Page 268</p> <p>1 close the Landover facility and obtain a 2 registration number for a new facility in 3 Virginia."</p> <p>4 Do you see that?</p> <p>5 A. I see that.</p> <p>6 Q. Okay. So according to the 7 United States Department of Justice, after 8 you signed the 2008 memorandum and paid the 9 \$13 million, you did not operate -- design 10 and operate a system to identify suspicious 11 orders, and you did not, for that three-year 12 period they're talking about, report any 13 suspicious orders out of the Landover 14 facility, correct?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 THE WITNESS: I don't believe 17 that to be 100 percent accurate.</p> <p>18 QUESTIONS BY MR. RAFFERTY:</p> <p>19 Q. You don't believe that to be 20 100 percent accurate?</p> <p>21 A. I don't.</p> <p>22 Q. Well, that's what the DOJ says 23 right there, right?</p> <p>24 A. I know that's what they say.</p> <p>25 Q. Okay. And in fact, this was</p> |
| <p style="text-align: right;">Page 267</p> <p>1 MR. RAFFERTY: We'll mark it as 2 Exhibit 67.</p> <p>3 MS. HENN: Thank you.</p> <p>4 (McKesson-Hartle Exhibit 67 5 marked for identification.)</p> <p>6 QUESTIONS BY MR. RAFFERTY:</p> <p>7 Q. So Landover, Maryland, was one 8 of those, right?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. So if we go through -- 11 and it says next, "Between May of 2008 -- May 12 of 2008" --</p> <p>13 MR. RAFFERTY: Back to the 14 computer, I'm sorry.</p> <p>15 QUESTIONS BY MR. RAFFERTY:</p> <p>16 Q. -- "and November 15, 2011" -- 17 so a three-year period, over a three-year 18 period -- "McKesson did not submit any 19 suspicious order reports related to orders 20 filled by the Landover facility. McKesson 21 began submitting a very limited number of 22 SORs to the DEA in November of 2011. It is 23 my informed belief that these SORs were 24 submitted due to requests for information 25 made by the DEA and McKesson's desire to</p> | <p style="text-align: right;">Page 269</p> <p>1 part of the material -- or part of the 2 allegations that were settled in 2017, 3 correct?</p> <p>4 A. Correct.</p> <p>5 Q. Okay. It also goes on, if you 6 look at page 2: "In light of additional SORs 7 submitted by McKesson following the 8 January 2012 meeting, the DEA also focused on 9 suspicious orders filled by McKesson for 10 Family Pharmacy Services and Drug City 11 Pharmacy. With respect to these five 12 pharmacies, the DEA is aware of no less than 13 318 suspicious orders" -- 318 suspicious 14 orders -- "that McKesson failed to report at 15 the time they were or should have been 16 discovered."</p> <p>17 Now, you're aware, based on 18 what we read earlier today, that you are 19 supposed to, under the Controlled Substances 20 Act, report suspicious orders when you 21 discover them, right?</p> <p>22 MS. HENN: Objection to form.</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. We read that earlier today?</p> <p>25 MS. HENN: Objection to form.</p> |

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| <p style="text-align: right;">Page 270</p> <p>1 THE WITNESS: In the guidance 2 letter. 3 QUESTIONS BY MR. RAFFERTY: 4 Q. That's right. 5 A. Correct. 6 Q. Okay. "In addition, the DEA 7 and the US Attorney's Office have conducted 8 an analysis of all transactions completed by 9 the Landover distribution facility. This 10 analysis shows that McKesson filled tens of 11 thousands of apparently suspicious orders out 12 of the Landover distribution facility without 13 a single suspicious order report being 14 submitted to the DEA."</p> <p>15 Do you see that?</p> <p>16 A. I see that.</p> <p>17 Q. Tens of thousands. Does that 18 strike you as -- that's a lot of suspicious 19 orders, isn't it, Mr. Hartle?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: It's a large 22 number, sure.</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. Yeah.</p> <p>25 "Furthermore, the United States</p> | <p style="text-align: right;">Page 272</p> <p>1 2011. In 2009 and 2010, McKesson sales and 2 regulatory compliance personnel relied on 3 claims of increased prescribing by Drs. Lee 4 and Wade and a nurse practitioner named Brown 5 to justify the regular and substantial 6 increases of L&M's thresholds."</p> <p>7 So the thresholds were being 8 increased, just like we were talking about 9 earlier, right?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 QUESTIONS BY MR. RAFFERTY:</p> <p>12 Q. According to this?</p> <p>13 A. That's what it says in this 14 document.</p> <p>15 Q. Okay. "Apparently McKesson's 16 personnel weren't paying close attention to 17 what was going on at L&M. Dr. Lee was 18 disciplined by the Commonwealth of Virginia 19 in March of 2010 for continuously prescribing 20 controlled substances to patients without 21 establishing or documenting a treatment plan 22 and without properly monitoring the patients. 23 In July of 2010, Dr. Wade 24 surrendered his DEA registration for cause. 25 Wade was arrested in 2012 and pled guilty to</p> |
| <p style="text-align: right;">Page 271</p> <p>1 Attorney's Office became aware of dozens, if 2 not hundreds, of suspicious orders being 3 filled by McKesson for a small, family-owned 4 pharmacy in Grant County, West Virginia. The 5 West Virginia pharmacy in question is Judy's 6 Drugstore. No suspicious order reports for 7 sales to Judy's Drugstore were ever provided 8 to the DEA."</p> <p>9 Do you see that?</p> <p>10 A. I see that.</p> <p>11 Q. So that's November of 2013, and 12 you were then contacted after that in March 13 of 2014.</p> <p>14 (McKesson-Hartle Exhibit 68 15 marked for identification.)</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. This is another letter from the 18 US Department of Justice, US Attorney, 19 William Ihlenfeld, once again with conduct 20 pertaining to that Landover facility, 21 correct?</p> <p>22 Well, let's -- I'll direct you 23 to it. If you go over to .4. And down below 24 it says, "By comparison, McKesson sold 25 805,000 dosage units of oxycodone to L&M in</p> | <p style="text-align: right;">Page 273</p> <p>1 illegal distribution of controlled 2 substances. He is currently serving 3 70 months in prison.</p> <p>4 "In January 2012, Brown was 5 arrested by the FBI." This is the nurse 6 practitioner. "In January 2012 Brown was 7 arrested by the FBI and subsequently 8 surrendered his DEA registration for cause. 9 It should also be noted that 10 McKesson-Landover personnel repeatedly 11 misidentified Brown as a physician in 12 documents that were placed in the CSMP file." 13 That's the kind of thing that 14 you should find out if you're exercising due 15 diligence in investigating a threshold 16 increase, isn't it, Mr. Hartle?</p> <p>17 MS. HENN: Objection to form.</p> <p>18 THE WITNESS: It's an important 19 piece of information.</p> <p>20 QUESTIONS BY MR. RAFFERTY:</p> <p>21 Q. An important -- it's a critical 22 piece of information, isn't it?</p> <p>23 A. Critical.</p> <p>24 Q. It's a piece of information 25 that should stop the order from being filled,</p> |

| Page 274 | Page 276 |
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| <p>1 right?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. If the doctors -- if the reason</p> <p>5 for increasing the threshold is increased</p> <p>6 prescriptions by doctors who have been put in</p> <p>7 jail, surrendered their DEA registrations or</p> <p>8 pled guilty, that's a pretty good tip that</p> <p>9 you shouldn't be filling that order and it</p> <p>10 should be a suspicious order, correct?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 THE WITNESS: It's a suspicious</p> <p>13 customer, so...</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. Suspicious customer.</p> <p>16 Is it your understanding that</p> <p>17 that's what your obligation was under the</p> <p>18 Controlled Substances Act, was to report</p> <p>19 suspicious customers and not suspicious</p> <p>20 orders?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 THE WITNESS: I understand our</p> <p>23 obligation was to report suspicious</p> <p>24 orders, but part of our program,</p> <p>25 again, from what I understand mutually</p> | <p>1 paper from DEA.</p> <p>2 Q. Yeah. In fact, you've never</p> <p>3 seen anything from DEA saying anything that</p> <p>4 your -- anything other than your obligation</p> <p>5 under the Controlled Substances Act is to</p> <p>6 report suspicious orders, correct?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 THE WITNESS: That's what they</p> <p>9 call out in their guidance, right.</p> <p>10 QUESTIONS BY MR. RAFFERTY:</p> <p>11 Q. Well, that's not what they just</p> <p>12 call it out in their guidance. That's what's</p> <p>13 called out in the federal regulations --</p> <p>14 A. Right.</p> <p>15 Q. -- and that's what's called in</p> <p>16 the Rannazzisi letters, and that's what</p> <p>17 discussed in your actual own CSMP, isn't it?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 THE WITNESS: It is.</p> <p>20 QUESTIONS BY MR. RAFFERTY:</p> <p>21 Q. Yes.</p> <p>22 A. I'm saying in addition to</p> <p>23 suspicious orders, there's been sharing of</p> <p>24 suspicious customers as well.</p> <p>25 Q. And in fact, if you look at</p> |
| <p>1 agreed upon with DEA, was in addition</p> <p>2 to suspicious orders, suspicious</p> <p>3 customers.</p> <p>4 QUESTIONS BY MR. RAFFERTY:</p> <p>5 Q. Where is it written down from</p> <p>6 the DEA that your obligation is to report</p> <p>7 suspicious customers? Where is that written</p> <p>8 down?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 THE WITNESS: I don't know if</p> <p>11 it is written down anywhere. I'm just</p> <p>12 saying in terms of discussions and as</p> <p>13 I've learned from leaders at McKesson</p> <p>14 about those discussions.</p> <p>15 QUESTIONS BY MR. RAFFERTY:</p> <p>16 Q. As you've been told by other</p> <p>17 people at McKesson, correct?</p> <p>18 A. Correct.</p> <p>19 Q. You've never seen anything from</p> <p>20 the DEA that ever says anything about only</p> <p>21 reporting suspicious customers, right?</p> <p>22 MS. HENN: Objection to form.</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. Correct?</p> <p>25 A. I don't recall seeing that on</p> | <p>1 page -- that actual argument was proposed to</p> <p>2 US Attorney Ihlenfeld in response to these,</p> <p>3 and it is addressed in this letter, correct?</p> <p>4 MS. HENN: Objection to form.</p> <p>5 THE WITNESS: Could you point</p> <p>6 to where that's at?</p> <p>7 QUESTIONS BY MR. RAFFERTY:</p> <p>8 Q. Sure. The first -- the</p> <p>9 second -- the second -- the third full</p> <p>10 paragraph.</p> <p>11 A. On which page?</p> <p>12 Q. Page 1.</p> <p>13 "I cannot accept." Do you see</p> <p>14 that? Third full paragraph. "I cannot</p> <p>15 accept."</p> <p>16 A. Why am I not finding this? Oh,</p> <p>17 because I'm on page 2. Sorry.</p> <p>18 Q. "I cannot accept that the CSMP</p> <p>19 implemented by McKesson after the 2008</p> <p>20 settlement was designed to identify</p> <p>21 suspicious customers. It is my informed</p> <p>22 belief that such a contention is more</p> <p>23 rationalization than reality."</p> <p>24 Do you see that?</p> <p>25 A. I see that.</p> |
| | Page 277 |

| Page 278 | Page 280 |
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| <p>1 Q. Okay. That's what's going on, 2 right? That's what's going on today, 3 rationalization, not reality?</p> <p>4 MS. HENN: Objection to form.</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. You don't have -- well, you 7 don't have any evidence whatsoever that any 8 DEA person ever told you that suspicious 9 customers was what you needed to report, not 10 suspicious orders?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 QUESTIONS BY MR. RAFFERTY:</p> <p>13 Q. And if you have it, point me to 14 it.</p> <p>15 MS. HENN: Same objection.</p> <p>16 THE WITNESS: Yeah, I don't 17 have any of that specific evidence.</p> <p>18 QUESTIONS BY MR. RAFFERTY:</p> <p>19 Q. Okay. So once again, like 20 earlier, you're guessing, right?</p> <p>21 MS. HENN: Objections to form.</p> <p>22 THE WITNESS: Based on 23 information that I've heard from 24 McKesson employees and seen in 25 McKesson decks and about some of those</p> | <p>1 customer claim.</p> <p>2 "The 2008 settlement agreement 3 does not require or implicitly suggest a CSMP 4 focused on suspicious customers. To the 5 contrary, the settlement agreement provides 6 that McKesson shall inform DEA of suspicious 7 orders."</p> <p>8 Do you see that?</p> <p>9 A. I do, and I understand that.</p> <p>10 Q. And in fact, it's all --</p> <p>11 everything that's discussed in that 12 settlement is about suspicious orders, right?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. Yes?</p> <p>16 A. Agreed.</p> <p>17 Q. If you turn to the second page, 18 "Moreover, any reasonable analysis of the 19 2008 settlement agreement arrives at the 20 conclusion that its aim was to enhance the 21 Comprehensive Drug Abuse Prevention and 22 Control Act and supporting regulatory scheme, 23 not displace it. It would be" --</p> <p>24 What's that word?</p> <p>25 A. "Grossly."</p> |
| <p>1 discussions.</p> <p>2 QUESTIONS BY MR. RAFFERTY:</p> <p>3 Q. From people who have -- from 4 the same employees who are being 5 investigated. Because that's when this -- 6 this was being discussed, while you're being 7 investigated for failing to meet your 8 obligations under the 2008 settlement 9 agreement and under the federal laws, 10 including the Controlled Substance Act, 11 right?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 THE WITNESS: I understand.</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. That's what rationalization is. 16 That's coming up with a reason, after you 17 start -- after you get caught not 18 implementing and not reporting suspicious 19 orders, right?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: I don't believe 22 that to be 100 percent true.</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. Well, let's what Mr. -- what 25 the US Attorney says about your suspicious</p> | <p>1 Page 279</p> <p>1 Q. -- "grossly inaccurate."</p> <p>2 "It would be grossly inaccurate 3 to suggest the parties to the settlement 4 agreement intended to supersede the Act and 5 relevant regulations. McKesson was subject 6 to the Act and regulations, generally and in 7 particular, both before and after the 8 settlement."</p> <p>9 Do you see that?</p> <p>10 A. I do see that.</p> <p>11 Q. Okay. Then he continues on on 12 page 3 to discuss this allegation that it was 13 customers that you were to be reporting, and 14 he goes through and points out that "all 15 versions of the CSMP PowerPoint prepared and 16 presented by McKesson clearly indicate that 17 the focus of the CMP {sic} was on the order, 18 not the customer."</p> <p>19 Do you see that?</p> <p>20 A. I do see that.</p> <p>21 Q. And he, in fact, attaches your 22 own presentations, doesn't he?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: That's what it 25 says.</p> |

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| <p style="text-align: right;">Page 282</p> <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. "In fact" -- the next</p> <p>3 paragraph -- "the idea that a distributor</p> <p>4 would implement a CSMP that concentrates on</p> <p>5 suspicious customers rather than suspicious</p> <p>6 orders is contrary to the letter and spirit</p> <p>7 of those provisions of the Act and</p> <p>8 regulations aimed at curbing drug diversion."</p> <p>9 Do you see that?</p> <p>10 A. I see that.</p> <p>11 Q. "However, even if one accepts</p> <p>12 arguendo that DEA personnel tacitly accepted</p> <p>13 a CSMP focusing on suspicious customers, the</p> <p>14 available evidence indicates that McKesson</p> <p>15 was not following its own program. By its</p> <p>16 own admission, McKesson reported just 35</p> <p>17 suspicious customers between March 2008 and</p> <p>18 November 2012."</p> <p>19 That's almost a four-year</p> <p>20 period, three-and-a-half-year period, right</p> <p>21 there, right?</p> <p>22 A. I see that.</p> <p>23 Q. "According to Mr. Walker" --</p> <p>24 That's Don Walker, right, the</p> <p>25 person you described earlier?</p> | <p style="text-align: right;">Page 284</p> <p>1 It is highly improbable that</p> <p>2 McKesson-Landover was not aware of the</p> <p>3 problem with JDS and Masih. I have concluded</p> <p>4 that McKesson did not report suspicions about</p> <p>5 JDS because the DEA had not inquired about</p> <p>6 JDS."</p> <p>7 Do you see that?</p> <p>8 A. I see that.</p> <p>9 Q. So in terms of the question</p> <p>10 about this customer, this suspicious</p> <p>11 customer, there is -- the CSMP only</p> <p>12 references -- your own internal policy only</p> <p>13 references suspicious orders, true?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 THE WITNESS: I believe so,</p> <p>16 yeah.</p> <p>17 QUESTIONS BY MR. RAFFERTY:</p> <p>18 Q. Okay. The 2008 settlement you</p> <p>19 entered into and made -- and made</p> <p>20 representations to and promises to in terms</p> <p>21 of what you're going to do only references</p> <p>22 suspicious orders, not customers, true?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: Correct.</p> |
| <p style="text-align: right;">Page 283</p> <p>1 A. Correct.</p> <p>2 Q. -- "McKesson services</p> <p>3 approximately 25,000 customers daily. If one</p> <p>4 assumes that McKesson served the same 25,000</p> <p>5 customers every day from 2008 to 2012, then</p> <p>6 McKesson identified just .14 percent of its</p> <p>7 customers as suspicious. Obviously, this</p> <p>8 minuscule percentage is inflated in that</p> <p>9 McKesson did not have the same 25,000</p> <p>10 customers every day from '08 to 2012."</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. Then the last paragraph, "This</p> <p>14 conclusion is reinforced by other acts or</p> <p>15 omissions. Specifically, McKesson has never</p> <p>16 reported Judy's Drugstore or a JDS order as</p> <p>17 suspicious. This is remarkable given the</p> <p>18 well-documented diversion facilitated by JDS.</p> <p>19 JDS operated a small pharmacy in a very rural</p> <p>20 West Virginia county but was ordering</p> <p>21 inexplicable quantities of Schedule II and</p> <p>22 III narcotics for an extended period. JDS's</p> <p>23 orders were being fueled by the clearly</p> <p>24 suspicious, if not alarming, prescribing</p> <p>25 patterns of a local physician, Rajan Masih.</p> | <p style="text-align: right;">Page 285</p> <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. And you can't, sitting here</p> <p>3 today, point me to one piece of paper, one</p> <p>4 note, one anything written down from the DEA</p> <p>5 ever saying that your obligation is to report</p> <p>6 suspicious customers, not orders, true?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 THE WITNESS: I can't point to</p> <p>9 that. I know our obligation was to</p> <p>10 report suspicious orders.</p> <p>11 My point was, in addition, we</p> <p>12 were reporting, what I understand --</p> <p>13 this is before I -- this is before I</p> <p>14 joined -- that customers were included</p> <p>15 in that.</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. Let me --</p> <p>18 A. That was my original --</p> <p>19 Q. Let me ask the question again.</p> <p>20 You can't point me to a piece</p> <p>21 of paper anywhere from the DEA, a letter, a</p> <p>22 memo, a note, anything from the DEA,</p> <p>23 indicating that your obligation was to report</p> <p>24 suspicious customers and not orders, true?</p> <p>25 MS. HENN: Objection to form.</p> |

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| <p style="text-align: right;">Page 286</p> <p>1 THE WITNESS: True.</p> <p>2 QUESTIONS BY MR. RAFFERTY:</p> <p>3 Q. It's a yes or no.</p> <p>4 A. True.</p> <p>5 Q. True. Thank you.</p> <p>6 MS. HENN: Counsel, is this a 7 good time for a five-minute?</p> <p>8 MR. RAFFERTY: Yeah.</p> <p>9 MS. HENN: Thank you very much.</p> <p>10 VIDEOGRAPHER: The time is 11 2:18 p.m., and we're going off the 12 record.</p> <p>13 (Off the record at 2:18 p.m.)</p> <p>14 VIDEOGRAPHER: The time is 15 2:28 p.m., and we're back on the 16 record.</p> <p>17 QUESTIONS BY MR. RAFFERTY:</p> <p>18 Q. All right. Around this same 19 time period, Mr. Hartle, that we were 20 discussing that letter from the US Attorney 21 from West Virginia, there was also other 22 US Attorneys involved in investigating 23 McKesson's failure to report suspicious 24 orders, true?</p> <p>25 A. Yes.</p> | <p style="text-align: right;">Page 288</p> <p>1 THE WITNESS: It's not a 2 meaningless process, no.</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. No.</p> <p>5 In fact, it requires, as we've 6 seen in the regulations, due diligence. It 7 requires proactive and being vigilant, right?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: That's -- again, 10 it's not meaningless. It requires 11 more than just a box-checking.</p> <p>12 QUESTIONS BY MR. RAFFERTY:</p> <p>13 Q. But you agreed with me earlier, 14 though, you should be vigilant, you should be 15 proactive, right, and you should exercise due 16 diligence?</p> <p>17 A. In our due diligence.</p> <p>18 MS. HENN: Objection to form.</p> <p>19 THE WITNESS: Excuse me.</p> <p>20 QUESTIONS BY MR. RAFFERTY:</p> <p>21 Q. And then it goes on and says, 22 "Suspicious order reporting serves concrete 23 public safety goals."</p> <p>24 Do you see that?</p> <p>25 A. I see that.</p> |
| <p style="text-align: right;">Page 287</p> <p>1 Q. In fact, one of those was John 2 Walsh from the District of Colorado, and that 3 letter is August 13, 2004 -- August 13, 2014, 4 correct? It's Exhibit 54.</p> <p>5 A. Is it August 13, 2014?</p> <p>6 Q. Yes, sir.</p> <p>7 A. Correct.</p> <p>8 Q. All right. If we turn to 9 page 2 of that -- well, go back, just so I 10 can orient.</p> <p>11 Okay. So you see up there, 12 August 13, 2014. And it's "Re: possible 13 civil action against McKesson Corporation for 14 violations of the Controlled Substances Act," 15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. So if we go to page 2, 18 it says here in the second full paragraph at 19 the beginning, "The regulatory requirement to 20 report suspicious orders is not meaningless 21 box-checking."</p> <p>22 Do you see that?</p> <p>23 A. I see that.</p> <p>24 Q. And you agree with that, right?</p> <p>25 MS. HENN: Objection to form.</p> | <p style="text-align: right;">Page 289</p> <p>1 Q. "Distributors are on the front 2 lines and thus in a unique position to 3 promptly advise the DEA when they receive an 4 order that is unusual, deviates from a normal 5 patterns or is otherwise suspicious or 6 inappropriate. If the distributor does not 7 alert the DEA of such orders, then the DEA 8 cannot take the necessary law enforcement 9 steps to investigate the orders and prevent 10 diversion. In this manner, distributors like 11 McKesson-Aurora play a vital role in 12 preventing diversion."</p> <p>13 Do you see that?</p> <p>14 A. I see that.</p> <p>15 Q. And so we're clear, in the 2008 16 settlement there was conduct also involved in 17 the McKesson-Aurora facility, correct?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. So then if we turn to 20 .3, page .3, I'm sorry, it says in that top 21 paragraph, "Instead, when McKesson-Aurora 22 received a suspicious order from one of its 23 pharmacy customers, the distribution center 24 manipulated its internal control systems in 25 various ways to avoid having to report that</p> |

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| <p>1 order."</p> <p>2 Now, what they're talking about</p> <p>3 there is manipulating the threshold change</p> <p>4 requests, aren't they?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 THE WITNESS: They're talking</p> <p>7 about thresholds.</p> <p>8 QUESTIONS BY MR. RAFFERTY:</p> <p>9 Q. Okay. "The result was that</p> <p>10 readily available identifiable orders and</p> <p>11 ordering patterns that were obvious signs of</p> <p>12 diversion occurring at McKesson-Aurora</p> <p>13 customer pharmacies went unreviewed and</p> <p>14 unreported. In this manner,</p> <p>15 McKesson-Aurora's desire for increased sales</p> <p>16 drove its compliance efforts."</p> <p>17 Do you see that?</p> <p>18 A. I see that.</p> <p>19 Q. Okay. Then it goes on and</p> <p>20 says, "McKesson-Aurora's failure to report</p> <p>21 suspicious orders to the DEA has had tangible</p> <p>22 and tragic consequences."</p> <p>23 Have you reviewed this document</p> <p>24 before, Mr. Hartle?</p> <p>25 A. I have seen it.</p> | <p>1 McKesson-Aurora."</p> <p>2 Do you see that?</p> <p>3 A. I do.</p> <p>4 Q. Identified nine deaths as a</p> <p>5 direct result of diversion involving</p> <p>6 pharmacies you were providing the narcotics</p> <p>7 to, right?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: I see that listed</p> <p>10 in here, yes.</p> <p>11 QUESTIONS BY MR. RAFFERTY:</p> <p>12 Q. So after you got this</p> <p>13 information in 2014, did you reach out? Did</p> <p>14 you try to find who those people were? Did</p> <p>15 you try to go to the pharmacy? Did you try</p> <p>16 to reach out to anybody in Aurora that was</p> <p>17 involved in these deaths, any of their family</p> <p>18 members, to try and figure out how McKesson</p> <p>19 could not -- could do something to not let</p> <p>20 this happen again? Did you do that?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 THE WITNESS: Personally, no, I</p> <p>23 did not.</p> <p>24 QUESTIONS BY MR. RAFFERTY:</p> <p>25 Q. "At least two drug trafficking</p> |
| <p>1 Q. Okay. When was the first time</p> <p>2 you saw this?</p> <p>3 A. The first time that I saw it?</p> <p>4 Q. Yeah.</p> <p>5 You were there in August</p> <p>6 of 2014?</p> <p>7 A. I was. It was clearly after</p> <p>8 that. I can't remember exactly when.</p> <p>9 Q. It would have been around that</p> <p>10 time period, though, right?</p> <p>11 A. A little bit later before it</p> <p>12 made its way, I think, for us to be -- to be</p> <p>13 available to see it.</p> <p>14 Q. But, I mean, they're alleging</p> <p>15 conduct involving the department that you're</p> <p>16 one of the senior officials in, correct?</p> <p>17 A. Correct.</p> <p>18 Q. So you would have gotten it?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. And it says here, "The</p> <p>21 tangible and tragic consequences. At least</p> <p>22 nine overdose deaths in Colorado can be</p> <p>23 traced to purchases made at pharmacies that</p> <p>24 were purchasing unusually high quantities of</p> <p>25 oxycodone and hydrocodone from</p> | <p>1 organizations were operating out of</p> <p>2 McKesson-Aurora-supplied pharmacies and</p> <p>3 diverting prescription drugs for sales on the</p> <p>4 street, but McKesson-Aurora never once</p> <p>5 reported those pharmacies' blatant pattern of</p> <p>6 suspicious ordering to the DEA."</p> <p>7 Do you see that?</p> <p>8 A. I see that.</p> <p>9 Q. So nine people dead, two drug</p> <p>10 trafficking organizations running out of</p> <p>11 pharmacies that you were selling narcotics</p> <p>12 to, and no reports to the DEA, right?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: Again, that's --</p> <p>15 those are the allegations, yes.</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. All after -- years after you</p> <p>18 signed an agreement with the DEA in 2008 to</p> <p>19 report suspicious orders and to stop</p> <p>20 shipments of suspicious orders, right?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 THE WITNESS: After that</p> <p>23 settlement agreement, yes.</p> <p>24 QUESTIONS BY MR. RAFFERTY:</p> <p>25 Q. Uh-huh.</p> |

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| <p style="text-align: right;">Page 294</p> <p>1 In fact, amazingly, if you look 2 down in 2011, not only was McKesson turning a 3 blind eye to what was going on at the 4 McKesson-Aurora facility but, in fact, in 5 2011 McKesson-Aurora was recognized as the 6 distribution center of the year and given an 7 award.</p> <p>8 Do you see that?</p> <p>9 A. I do see that.</p> <p>10 Q. Do you think the families of 11 those nine people who passed away feel like 12 the Aurora -- McKesson-Aurora distribution 13 center should be given an award?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 THE WITNESS: I certainly 16 wouldn't feel that way.</p> <p>17 QUESTIONS BY MR. RAFFERTY:</p> <p>18 Q. Now, one of the reasons -- 19 well, let's go to page 13 first.</p> <p>20 Actually, one of the reasons -- 21 one of the reasons that from 2008 until 2013 22 suspicious orders weren't being reported to 23 the DEA is because you didn't want anybody 24 even using the word "suspicious" in 25 communications, right?</p> | <p style="text-align: right;">Page 296</p> <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. And when you came on board and 3 took that position over, I assume you 4 reviewed the CSMP that was in place at the 5 time?</p> <p>6 A. I did. I was also responsible 7 for evolving and -- that particular segment, 8 but I do review it.</p> <p>9 Q. Well, let's take a look at what 10 was in place, because as we just saw, failure 11 to prevent diversion, obviously, from a 12 global standpoint, from the country's 13 standpoint, has created an epidemic. But as 14 we can see here, it affects and has -- these 15 nine families could tell you affects very 16 personally at a level involving families in 17 the country, correct?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 THE WITNESS: Absolutely.</p> <p>20 QUESTIONS BY MR. RAFFERTY:</p> <p>21 Q. But what is written in the CSMP 22 and -- strike that.</p> <p>23 In fact, in -- reporting the 24 suspicious orders, as was just discussed by 25 the US Attorney in his letter, plays a vital</p> |
| <p style="text-align: right;">Page 295</p> <p>1 MS. HENN: Objection to form.</p> <p>2 THE WITNESS: Are you -- do you 3 have a...</p> <p>4 QUESTIONS BY MR. RAFFERTY:</p> <p>5 Q. Well, it's part of the CSMP 6 that was in place, right, was "don't use the 7 word 'suspicious' in written communications 8 with customers."</p> <p>9 MS. HENN: Objection to form.</p> <p>10 QUESTIONS BY MR. RAFFERTY:</p> <p>11 Q. Isn't that right?</p> <p>12 A. I can't think of a specific 13 section, but I think that's right.</p> <p>14 Q. You can't think of the -- well, 15 one of your jobs as the senior director of 16 regulatory affairs of the RNAs is to know, 17 understand and implement the controlled 18 substance monitoring program at McKesson, 19 right?</p> <p>20 A. Correct.</p> <p>21 Q. That is the foundation of your 22 job, right?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: It is.</p> | <p style="text-align: right;">Page 297</p> <p>1 role in the ability to stop diversion and 2 stop opioid addiction and abuse; isn't that 3 right?</p> <p>4 MS. HENN: Objection to form.</p> <p>5 THE WITNESS: Can you restate 6 your question, please?</p> <p>7 QUESTIONS BY MR. RAFFERTY:</p> <p>8 Q. Yeah.</p> <p>9 Reporting of suspicious orders, 10 effectively implementing and following the 11 Controlled Substances Act requirements by the 12 distributors, plays a vital role in 13 preventing diversion and fighting opioid 14 addiction and abuse in this country --</p> <p>15 MS. HENN: Objection to form.</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. -- right?</p> <p>18 A. It plays a role fighting -- 19 preventing diversion.</p> <p>20 Q. And it's something that should 21 certainly be taken seriously by companies, 22 especially when they're profiting and making 23 \$104 billion a year in sales, right?</p> <p>24 MS. HENN: Objection to form.</p> <p>25 THE WITNESS: Absolutely.</p> |

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| <p>1 MR. RAFFERTY: Okay. Let's 2 look at Plaintiff's 1.345, Corey, 3 which has already been marked as 4 Exhibit 51. Sorry.</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. All right. Do you see that?</p> <p>7 A. I do.</p> <p>8 Q. This is the CSMP that we talked 9 about earlier, right?</p> <p>10 A. Correct.</p> <p>11 Q. And if you turn to page .23 -- 12 and actually, I'm sorry, if you turn to .22, 13 just to see what section it's under, it's 14 under Due Diligence, number 4, Due Diligence, 15 right?</p> <p>16 A. Correct.</p> <p>17 Q. And then turn to page .23. 18 "Customer Communications," number 1. 19 Do you see that?</p> <p>20 A. I do.</p> <p>21 Q. "All communications regarding 22 controlled substances are subject to subpoena 23 and discovery."</p> <p>24 That means the DEA and the DOJ 25 can subpoena and make sure that they get to</p> | <p>1 suspicious orders, right?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 THE WITNESS: That's part of 4 our responsibility, yes.</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. And the reason you're telling 7 your employees not to use the word 8 "suspicious" is because if they use it, then 9 there's a legal obligation to stop shipment. 10 And if you stop shipment, you lose money, 11 right?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 THE WITNESS: Can you ask that 14 question again or rephrase it, please?</p> <p>15 QUESTIONS BY MR. RAFFERTY:</p> <p>16 Q. Yeah.</p> <p>17 What it says here is -- what 18 you say is, "Don't use the word 19 'suspicious'." "Refrain from using the word 20 'suspicious' in communications."</p> <p>21 And then there's a sub-bullet 22 which is explaining why, right?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: There is a 25 sub-bullet, yes.</p> |
| <p>1 look at what you're writing, right?</p> <p>2 A. Correct.</p> <p>3 Q. "Include in the subject line of 4 e-mails customer name and number or account. 5 Write information as if it were being viewed 6 by the DEA."</p> <p>7 Do you see that?</p> <p>8 A. I do.</p> <p>9 Q. "Be complete and detailed. 10 Remember to utilize the five Ws - who, what, 11 when, where or why."</p> <p>12 And then here it says, "Refrain 13 from using the word 'suspicious' in 14 communications. Once McKesson deems an order 15 and/or a customer suspicious, McKesson is 16 required to act. This means all controlled 17 substances sales to that customer must cease 18 and the DEA must be notified."</p> <p>19 Do you see that?</p> <p>20 A. I do.</p> <p>21 Q. "Refrain from using the word 22 'suspicious'."</p> <p>23 That's exactly what you're 24 supposed to be doing, is looking out pursuant 25 to the Controlled Substances Act for</p> | <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. "Once McKesson deems an order 3 and/or customer suspicious, McKesson is 4 required to act."</p> <p>5 Right? You see that?</p> <p>6 A. I do see that.</p> <p>7 Q. "This means all controlled 8 substances sales to that customer must cease 9 and the DEA must be notified."</p> <p>10 So what you're telling your 11 employees to do is not use the word 12 "suspicious" because if you do, we're not 13 going to be able -- we're going to be forced 14 to act and we're going to have to stop 15 shipments, and we're going to have to notify 16 the DEA, right?</p> <p>17 MS. HENN: Objection to form.</p> <p>18 QUESTIONS BY MR. RAFFERTY:</p> <p>19 Q. So don't use the word 20 "suspicious" so we don't trigger that.</p> <p>21 MS. HENN: Objection to form.</p> <p>22 THE WITNESS: That's what's in 23 the document. I don't -- I wasn't 24 part of writing it or --</p> |

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| <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. Well, you're part of</p> <p>3 implementing it, right?</p> <p>4 A. Part of the program, sure.</p> <p>5 Q. A big part of the program.</p> <p>6 You're senior director of the national</p> <p>7 accounts.</p> <p>8 A. Right.</p> <p>9 Q. Right?</p> <p>10 A. Right.</p> <p>11 Q. Okay. And when you came on</p> <p>12 board with your experience from Target and</p> <p>13 you, as part of your job, have to know what</p> <p>14 the CSMP is, you knew this was in there,</p> <p>15 right?</p> <p>16 MS. HENN: Objection to form.</p> <p>17 QUESTIONS BY MR. RAFFERTY:</p> <p>18 Q. You reviewed these policies?</p> <p>19 A. I reviewed this document, yeah.</p> <p>20 Q. Right.</p> <p>21 And in fact, this is the exact</p> <p>22 opposite of what you should be telling your</p> <p>23 employees in order -- if you -- in order to</p> <p>24 protect the public health and safety, right?</p> <p>25 MS. HENN: Objection to form.</p> | <p>1 suspicious orders to the DEA, right?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 THE WITNESS: That's what was</p> <p>4 alleged.</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. So at least this portion of the</p> <p>7 CSMP seems to be implemented pretty well by</p> <p>8 you-all, right?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 QUESTIONS BY MR. RAFFERTY:</p> <p>11 Q. Seems to have worked, right?</p> <p>12 A. I know...</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: What's your</p> <p>15 question? Can you rephrase it?</p> <p>16 Can -- I'm not sure how to answer</p> <p>17 that.</p> <p>18 QUESTIONS BY MR. RAFFERTY:</p> <p>19 Q. Well, let me ask it this way:</p> <p>20 Where in this particular section is there any</p> <p>21 discussion about the public health and</p> <p>22 safety, about protecting people from opioid</p> <p>23 abuse, about preventing diversion?</p> <p>24 MS. HENN: Objection to form.</p> <p>25</p> |
| <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. You shouldn't be discouraging</p> <p>3 them from using a word that might require you</p> <p>4 to act, to stop a shipment that might be</p> <p>5 suspicious. You shouldn't do that, should</p> <p>6 you?</p> <p>7 MS. HENN: Same objection.</p> <p>8 THE WITNESS: We shouldn't</p> <p>9 discourage using information and</p> <p>10 acting upon information.</p> <p>11 QUESTIONS BY MR. RAFFERTY:</p> <p>12 Q. This is specifically telling</p> <p>13 them, don't use the word "suspicious" because</p> <p>14 if you do, we're going to be required to act,</p> <p>15 right?</p> <p>16 MS. HENN: Objection to form.</p> <p>17 QUESTIONS BY MR. RAFFERTY:</p> <p>18 Q. And to notify the DEA.</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: That's what it</p> <p>21 says in the document.</p> <p>22 QUESTIONS BY MR. RAFFERTY:</p> <p>23 Q. And in fact, it worked, because</p> <p>24 from 2008 until 2013, according to many of</p> <p>25 these US Attorneys, you weren't reporting any</p> | <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. What it says is, "Don't use the</p> <p>3 word 'suspicion' so we're not required to</p> <p>4 act"; isn't that right?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 QUESTIONS BY MR. RAFFERTY:</p> <p>7 Q. That's what it says, sir,</p> <p>8 correct?</p> <p>9 A. That's what it says in the</p> <p>10 document.</p> <p>11 Q. Okay. All right. Let's look</p> <p>12 at 1.1443. Oh, that's what was -- that's the</p> <p>13 one we're on now.</p> <p>14 Oh, 43. Yes. And that has</p> <p>15 previously been marked as Exhibit 54. Oh,</p> <p>16 40, I'm sorry. The numbers are too close.</p> <p>17 They're 1433 and 1443. Okay. So this is</p> <p>18 Exhibit 1.1443.</p> <p>19 (McKesson-Hartle Exhibit 69</p> <p>20 marked for identification.)</p> <p>21 QUESTIONS BY MR. RAFFERTY:</p> <p>22 Q. This is Exhibit 1.1443, now</p> <p>23 marked as Exhibit 69.</p> <p>24 This is November 4, 2014, and</p> <p>25 it is from the US Department of Justice DEA</p> |

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| <p>1 in Springfield, Virginia.</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And it says, "Re:</p> <p>5 registration consequences for McKesson</p> <p>6 Corporation for violations of the Controlled</p> <p>7 Substance Act."</p> <p>8 A. I see that.</p> <p>9 Q. And if you go to page 2, .2, it</p> <p>10 says, "That having" -- this is the first full</p> <p>11 paragraph, sir. "That having been said, we</p> <p>12 remain concerned that McKesson fails to</p> <p>13 appreciate the serious and systematic {sic}</p> <p>14 nature of the CSA-related problems that DEA</p> <p>15 has observed in its several investigations</p> <p>16 into your client's operations."</p> <p>17 Do you see that?</p> <p>18 A. I do.</p> <p>19 Q. "The loss of business that</p> <p>20 McKesson may experience as a result of</p> <p>21 surrendering DEA CORs is a justified and</p> <p>22 appropriate consequence that is consistent</p> <p>23 with the public interest."</p> <p>24 You see that?</p> <p>25 A. I see that.</p> | <p>1 that correct, Mr. Hartle?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 THE WITNESS: Those are the</p> <p>4 numbers listed in here.</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. Now, this goes through and</p> <p>7 details additional distribution centers that</p> <p>8 are being investigated and that have been</p> <p>9 found to fail to report -- have been found</p> <p>10 failing to report suspicious orders for years</p> <p>11 after the 2008 agreement was entered into,</p> <p>12 correct?</p> <p>13 A. Can you say that again, please?</p> <p>14 Q. Yeah. Let's turn to page .3.</p> <p>15 "Like its Colorado counterpart,</p> <p>16 McKesson's distribution center at 3820 --</p> <p>17 38220 Plymouth Road, Livonia, Michigan,</p> <p>18 McKesson-Livonia, reported no suspicious</p> <p>19 orders for approximately five years after</p> <p>20 McKesson's settlement with the DOJ."</p> <p>21 Did I read that right?</p> <p>22 A. You did.</p> <p>23 Q. That's Livonia, Michigan.</p> <p>24 And if you go down to the next</p> <p>25 paragraph: "McKesson's systemic failures</p> |
| Page 307 | Page 309 |
| <p>1 Q. So -- and then in the following</p> <p>2 paragraph below that, "In order to release</p> <p>3 all McKesson-owned DEA registrants from</p> <p>4 administrative liability, as you have</p> <p>5 requested, the agreed-upon registration</p> <p>6 consequences must reflect not only the</p> <p>7 gravity of the offenses but the nationwide</p> <p>8 scope."</p> <p>9 Do you see that? "The</p> <p>10 nationwide scope of McKesson's failure to</p> <p>11 report suspicious orders and to maintain</p> <p>12 effective controls against diversion."</p> <p>13 Do you see that?</p> <p>14 A. I see that.</p> <p>15 Q. The next paragraph: "As we</p> <p>16 have discussed previously, McKesson-Aurora</p> <p>17 lacked a functional suspicious order</p> <p>18 reporting system for approximately five</p> <p>19 years. McKesson-Aurora reported a total of</p> <p>20 16 orders as suspicious in one batch,</p> <p>21 occurring in one quarter, related to one</p> <p>22 recently terminated pharmacy, while it</p> <p>23 processed a total of 1.6 million orders for</p> <p>24 controlled substances from 2008 to 2012."</p> <p>25 So 16 out of 1.6 million; is</p> | <p>1 were also evident at its distribution center</p> <p>2 at 3000 Kenskill Avenue, Washington Court</p> <p>3 House, Ohio."</p> <p>4 Do you see that?</p> <p>5 A. I do.</p> <p>6 Q. "Here again, McKesson did not</p> <p>7 report any orders as suspicious for years</p> <p>8 after the 2008 settlement with DOJ and DEA."</p> <p>9 Do you see that?</p> <p>10 A. I see that.</p> <p>11 Q. "When DEA began to investigate</p> <p>12 this silence, McKesson's regional director of</p> <p>13 regulatory affairs told DEA investigators</p> <p>14 that he did not know what a suspicious order</p> <p>15 was."</p> <p>16 Do you see that?</p> <p>17 A. I see that.</p> <p>18 Q. "And protested that the DEA had</p> <p>19 not adequately defined the term."</p> <p>20 Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. The regional director of</p> <p>23 regulatory affairs not knowing what a</p> <p>24 suspicious order is at one of the largest</p> <p>25 distributors of narcotics in the country; you</p> |

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| <p>1 think that's reasonable?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. They should know what a</p> <p>5 suspicious order is?</p> <p>6 A. They should.</p> <p>7 Q. Yeah. Okay. That is</p> <p>8 Washington Court House, Ohio.</p> <p>9 Going on to the next page.</p> <p>10 "McKesson's system to detect suspicious</p> <p>11 orders also fell short at the distribution</p> <p>12 center in Lakeland, Florida. Once again, in</p> <p>13 derogation of its responsibilities under the</p> <p>14 CSA and the 2008 MOA, McKesson-Lakeland</p> <p>15 failed to report any suspicious orders to DEA</p> <p>16 for a five-year period."</p> <p>17 Do you see that?</p> <p>18 A. I do.</p> <p>19 Q. So that's Lakeland, Florida.</p> <p>20 That was part of the 2008. So I'm not going</p> <p>21 to add this to the chart, but that was part</p> <p>22 of the 2008 settlement as well, right, that</p> <p>23 distribution center?</p> <p>24 MS. HENN: Objection to form.</p> <p>25 THE WITNESS: Correct.</p> | <p>1 could present in the administrative</p> <p>2 proceedings against these registrants. We</p> <p>3 have attempted to highlight this evidence in</p> <p>4 the hopes that you and your client can fully</p> <p>5 understand why DEA believes that the failings</p> <p>6 at McKesson were as systematic {sic} as they</p> <p>7 were serious."</p> <p>8 Oh, I'm sorry, systemic as they</p> <p>9 were serious.</p> <p>10 Do you see that?</p> <p>11 A. I do.</p> <p>12 Q. Okay. So the word "systemic."</p> <p>13 And going back to what we</p> <p>14 discussed, just so that we can -- you can see</p> <p>15 what I'm writing down here, back to the first</p> <p>16 page -- the -- page .2 where it talks about</p> <p>17 "the agreed-upon registration consequences</p> <p>18 must reflect not only the gravity of the</p> <p>19 offenses but nationwide scope of McKesson's</p> <p>20 failure to report suspicious orders," so</p> <p>21 nationwide.</p> <p>22 Now, if we go forward now, this</p> <p>23 is in November 2014.</p> <p>24 Now -- well, first of all,</p> <p>25 let's take a look at 1.098.</p> |
| <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. All right. "McKesson also" --</p> <p>3 the next paragraph. "McKesson also remained</p> <p>4 silent about suspicious orders received by</p> <p>5 its distribution center at Methuen,</p> <p>6 Massachusetts, McKesson-Methuen."</p> <p>7 Do you see that?</p> <p>8 A. I do.</p> <p>9 Q. "As with other distribution</p> <p>10 centers McKesson operated, McKesson failed to</p> <p>11 report any suspicious orders from May 2008</p> <p>12 through November 2013, though it sold</p> <p>13 increasing amounts of oxycodone during the</p> <p>14 same time period with little to no</p> <p>15 investigation."</p> <p>16 Do you see that?</p> <p>17 A. I see that.</p> <p>18 Q. Methuen -- I don't even know if</p> <p>19 I'm pronouncing it right -- Massachusetts.</p> <p>20 And if we go over to tab F, the</p> <p>21 next paragraph, the first full paragraph.</p> <p>22 "As noted above, the above examples are</p> <p>23 illustrative, not exhaustive. They are meant</p> <p>24 to illustrate what we mean when we say that</p> <p>25 we will be driven by the evidence that we</p> | <p>1 (McKesson-Hartle Exhibit 70</p> <p>2 marked for identification.)</p> <p>3 QUESTIONS BY MR. RAFFERTY:</p> <p>4 Q. This will be marked as</p> <p>5 Exhibit 70, and this is the McKesson</p> <p>6 Corporation's response to the Teamsters.</p> <p>7 Let's see what happens in 2015,</p> <p>8 if you look.</p> <p>9 Now, here, this is -- what this</p> <p>10 is is this is the board of directors of</p> <p>11 McKesson responding to the International</p> <p>12 Brotherhood of Teamsters who were</p> <p>13 shareholders -- or shareholders in McKesson</p> <p>14 raising questions about why that</p> <p>15 \$150 million -- the conduct surrounding that</p> <p>16 \$150 million fine, the \$13.25 million fine</p> <p>17 and its failures in regards to the control --</p> <p>18 the Controlled Substances Act, correct?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: Correct.</p> <p>21 QUESTIONS BY MR. RAFFERTY:</p> <p>22 Q. Okay. Let's just -- I'm just</p> <p>23 going to draw you to one particular section</p> <p>24 because I just went through a whole bunch of</p> <p>25 different things where it was saying no</p> |

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| <p>1 reports were being filed by these different 2 distribution centers for suspicious orders, 3 yet in 2015 -- so zero -- you kept hearing 4 zero -- no reports from 2008 to 2013, no 5 reports from 2000 -- for years, right? Some 6 for five years, right?</p> <p>7 A. Correct.</p> <p>8 Q. Yet in 2015, you-all --</p> <p>9 A. What page are we on?</p> <p>10 Q. Sorry. Page 24 of the report.</p> <p>11 In 2015, the bottom paragraph: 12 "Since 2015" -- the company provided the 13 following data: In 2015, after it's been -- 14 being investigated by the DEA, the DOJ, the 15 company reported over 230,000 suspicious 16 orders.</p> <p>17 MS. HENN: Sorry, so you're on 18 page --</p> <p>19 MR. RAFFERTY: Page 24.</p> <p>20 MS. HENN: Not .28.</p> <p>21 MR. RAFFERTY: Oh, yeah, I'm 22 sorry, mine's not -- sorry.</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. Last sentence on that page.</p> <p>25 A. Okay.</p> | <p>1 agreement for the 2017 \$150 million 2 settlement, correct?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. So in here it says on 5 page 3, .3, it says, "Covered Conduct." 6 Do you see that?</p> <p>7 "For the purpose of this 8 agreement, covered conduct means the 9 following conduct alleged by the government 10 for the covered time period."</p> <p>11 And it says, "McKesson failed 12 to maintain effective controls against 13 diversion of particular controlled substances 14 into other than legitimate medical, 15 scientific and industrial channels by sales 16 to certain of its customers, in violation of 17 the CSA and CSA's implementing regulations at 18 McKesson distribution centers, including the 19 following."</p> <p>20 So we're going to go through 21 and list those, and if they're not on this 22 list already, I'm going to add them, okay?</p> <p>23 A. Okay.</p> <p>24 Q. Aurora, Colorado, that's on 25 there.</p> |
| <p style="text-align: center;">Page 315</p> <p>1 Q. So no suspicious reports for 2 years, and then here it says the company 3 provided the following data: In 2015, the 4 company reported over 230,000 suspicious 5 orders. In 2016, the company reported over 6 220,000 suspicious orders. And in 2017, the 7 company reported over 145,000 suspicious 8 orders. Per year.</p> <p>9 So going from zero for five 10 years to now reporting hundreds of thousands 11 of suspicious orders, right?</p> <p>12 A. Systematically reporting, 13 correct.</p> <p>14 Q. Okay. Now, if we could go to 15 the -- let's see, 1.088. Exhibit 58. This 16 is the copy we talked about earlier, so I'm 17 only going to go through one particular 18 aspect of it.</p> <p>19 A. I apologize, I don't have my 58 20 quite yet. I'm a bit out of order.</p> <p>21 Q. Okay.</p> <p>22 A. Sorry about that. I have it 23 now.</p> <p>24 Q. Okay. If you look at page --</p> <p>25 this is the administrative memorandum of</p> | <p style="text-align: center;">Page 317</p> <p>1 Aurora, Illinois, is not on 2 there.</p> <p>3 Delran, New Jersey, not on 4 there.</p> <p>5 Lacrosse, Wisconsin, not on 6 there.</p> <p>7 Lakeland, Florida, that's on 8 there.</p> <p>9 Landover, Maryland, that's on 10 there.</p> <p>11 La Vista, Nebraska.</p> <p>12 Livonia, Michigan, that's on 13 there.</p> <p>14 Methuen, Massachusetts, that's 15 on there.</p> <p>16 Santa Fe Springs, California, 17 that's not on there.</p> <p>18 Washington Court House, Ohio, 19 that's on there.</p> <p>20 And West Sacramento, 21 California, that's on there.</p> <p>22 Those are all the distribution 23 centers in the different states that the 24 allegations from -- in the 2008 and 2017 25 settlement -- if I could have the Elmo --</p> |

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| 1 involved, correct? 2 All right. So what we have 3 here is, if you look, "The conduct for 4 failing to report suspicious orders" -- and 5 it was cited by and investigated by the DOJ 6 and DEA -- "involve distribution centers from 7 Maryland, Florida, Texas, Colorado, Utah, 8 California, Illinois, Michigan, Ohio, 9 Massachusetts, Wisconsin, Nebraska," and then 10 California, which I'm not counting again. 11 But that makes 12 states, correct, 12 12 different states? 13 MS. HENN: Objection to form. 14 THE WITNESS: Correct. 15 QUESTIONS BY MR. RAFFERTY: 16 Q. Right. 17 Which is one of the reasons it 18 led to the comments by the US Attorney and 19 the Department of Justice as these being 20 systemic and nationwide failures, correct? 21 MS. HENN: Objection to form. 22 THE WITNESS: Correct. 23 QUESTIONS BY MR. RAFFERTY: 24 Q. Okay. And in fact, you're 25 familiar with the concept of the migration of | Page 318 1 can just put this up, if you want. It's a 2 chart. 3 This is from, just so you are 4 aware, the prescription drug abuse we looked 5 at earlier. 6 A. I've seen it before. 7 Q. Okay. 8 A. Okay. 9 Q. From McKesson. This is from 10 McKesson in 2014. And this is one of the 11 slides. "Drug diversion, migration out of 12 Florida." 13 And you see the arrow going all 14 the way up through Georgia, Tennessee, 15 Kentucky, Ohio, Missouri? 16 A. Yeah, I'm aware of -- 17 MS. HENN: Objection to form. 18 THE WITNESS: Oh, excuse me. 19 Aware of how drugs move and 20 migrate, so... 21 QUESTIONS BY MR. RAFFERTY: 22 Q. Right. 23 So when you're talking about 24 drugs being diverted in 12 different states, 25 it's not limited to those 12 states, right? |
| Page 319 1 diverted drugs, correct, meaning drugs 2 that -- go ahead. 3 A. That move borders. 4 Q. Right. 5 A. Right. 6 Q. Drugs don't just -- because you 7 sell it to one particular pharmacy doesn't -- 8 in one particular town doesn't mean that drug 9 is staying in that town, right? 10 A. Agreed. 11 Q. In fact, there's migration all 12 the way -- and it's been well-known and shown 13 that in terms of the drugs, for example, the 14 narcotics that were being sold by McKesson in 15 Florida, and the migration all the way up 16 through the Midwest, into Ohio and throughout 17 the country, correct? 18 MS. HENN: Objection to form. 19 THE WITNESS: Can you say that 20 again? I want to make sure -- 21 QUESTIONS BY MR. RAFFERTY: 22 Q. Yeah. You're familiar -- well, 23 let me show you this. Let's just look at 24 this. 25 This is from Exhibit 44, and I | Page 321 1 Those drugs move out of those states? 2 A. They can. 3 MS. HENN: Objection to form. 4 QUESTIONS BY MR. RAFFERTY: 5 Q. They can. 6 And in fact, the distribution 7 centers that you're talking about, that when 8 we're talking about distribution centers in 9 these states, those distribution centers 10 actually service pharmacies in other states, 11 right? 12 It's not just because it's 13 located in, you know, Washington Court House, 14 Ohio, that it's not servicing pharmacies in 15 other states or surrounding states, correct? 16 A. Correct. Distribution centers 17 can serve customers in multiple states. 18 Q. Right. So what we're talking 19 about when we talk about 12 states being 20 implicated, that's just the 12 states where 21 the distribution centers are. 22 But when we're talking about 23 systemic and nationwide failures at these 24 distribution centers, we're talking about 25 drugs migrating and the distribution centers |

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| <p>1 servicing many other surrounding states as 2 well, correct?</p> <p>3 MS. HENN: Objection to form.</p> <p>4 THE WITNESS: Can you clarify 5 that question for me, please?</p> <p>6 QUESTIONS BY MR. RAFFERTY:</p> <p>7 Q. Yeah.</p> <p>8 Remember I had the chart up and 9 showed that there were -- the 12 distribution 10 centers that were at the heart of the 2008 11 and 2017 --</p> <p>12 A. Correct.</p> <p>13 Q. -- settlements, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Based on allegations from the 16 DOJ and the DEA, right?</p> <p>17 A. Right.</p> <p>18 Q. And we know in 2017, at least 19 McKesson accepted responsibility in that 20 particular settlement agreement, right?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 QUESTIONS BY MR. RAFFERTY:</p> <p>23 Q. We went through that earlier 24 this morning.</p> <p>25 MS. HENN: Same objection.</p> | <p>1 A. I have.</p> <p>2 Q. Okay. And so in addition to 3 that, though, just from -- not even talking 4 about migration. Once it's put in place at a 5 pharmacy, the distribution center that is 6 failing in preventing diversion may be 7 servicing pharmacies in several other states, 8 not just the state it sits in.</p> <p>9 You would agree with that?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 THE WITNESS: I agree with 12 that.</p> <p>13 QUESTIONS BY MR. RAFFERTY:</p> <p>14 Q. Okay. Now, one last thing.</p> <p>15 You were...</p> <p>16 MR. RAFFERTY: Let's take a 17 five-minute break. I think we 18 might -- my part might be wrapping up.</p> <p>19 VIDEOGRAPHER: The time is 20 3:08 p.m., and we're going off the 21 record.</p> <p>22 (Off the record at 3:08 p.m.)</p> <p>23 VIDEOGRAPHER: The time is 24 3:17 p.m., and we're back on the 25 record.</p> |
| Page 323 | Page 325 |
| <p>1 THE WITNESS: Yeah, certain 2 pieces related to specific orders, 3 yes.</p> <p>4 QUESTIONS BY MR. RAFFERTY:</p> <p>5 Q. And specifically -- so what I'm 6 saying is, because we're talking about -- 7 trying to see that -- the effect that that 8 has, that diversion has -- based out of 9 distribution centers, it affects not just the 10 state that it's sitting in but many other 11 states that it services as well, correct?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 THE WITNESS: I agree that 14 diversion migrates.</p> <p>15 QUESTIONS BY MR. RAFFERTY:</p> <p>16 Q. Right.</p> <p>17 A. So there's the possibility 18 of --</p> <p>19 Q. But in addition to migration -- 20 because we agreed on that. Diversion 21 migrates. We see that, and McKesson has 22 acknowledged it. This is just one example of 23 it.</p> <p>24 You've heard of the oxy 25 express?</p> | <p>1 DIRECT EXAMINATION</p> <p>2 QUESTIONS BY MR. PAPANTONIO:</p> <p>3 Q. You've been questioned about 4 the migration of opioids, narcotics, that 5 your company sold, correct?</p> <p>6 That was right where 7 Mr. Rafferty left off, was asking you about 8 how narcotics that your company distributed 9 migrated around the United States, right?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 QUESTIONS BY MR. PAPANTONIO:</p> <p>12 Q. Remember the question before 13 the break?</p> <p>14 A. Yeah, we were talking about the 15 concept of migration.</p> <p>16 Q. And he talked about the fact 17 that not only was there migration, but you -- 18 everywhere this list that he made -- how 19 about -- let me put that back on here. 20 This list that Mr. Rafferty 21 made, these are actually what we call 22 distribution centers, correct? These are 23 distribution centers, right?</p> <p>24 A. Those are the locations of our 25 distribution centers, correct.</p> |

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| <p>1 Q. Right.</p> <p>2 And the idea of the</p> <p>3 distribution center is that you just don't</p> <p>4 distribute in the one state; you may have</p> <p>5 five states, you may have four states. They</p> <p>6 hit other areas besides the states that</p> <p>7 they're in, correct?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 QUESTIONS BY MR. PAPANTONIO:</p> <p>10 Q. Is that a correct statement,</p> <p>11 sir?</p> <p>12 A. Correct. That's a traditional</p> <p>13 distribution-type model.</p> <p>14 Q. And as a matter of fact, in</p> <p>15 addition to these, how many distribution</p> <p>16 sites did you have total?</p> <p>17 MS. HENN: Objection to form.</p> <p>18 THE WITNESS: It's</p> <p>19 approximately 30.</p> <p>20 QUESTIONS BY MR. PAPANTONIO:</p> <p>21 Q. Okay. So in addition to</p> <p>22 this -- I'm going to mark this exhibit up a</p> <p>23 little more. And you had 30 total</p> <p>24 distribution centers?</p> <p>25 A. Approximately.</p> | <p>1 those states that he showed you, from Florida</p> <p>2 to Georgia to Kentucky?</p> <p>3 Did you ever study what the --</p> <p>4 what the effect was in each one of those</p> <p>5 states, how many people died in each one of</p> <p>6 those states that the oxy express went</p> <p>7 through before you came in here today?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: I did not study</p> <p>10 that. I'm aware of the effects.</p> <p>11 QUESTIONS BY MR. PAPANTONIO:</p> <p>12 Q. Did you ever study, sir, any</p> <p>13 details about the findings that my partner</p> <p>14 went over with you this morning that the DEA</p> <p>15 had made in your failure to report suspicious</p> <p>16 orders and the end result of what that meant</p> <p>17 in human life, people dying?</p> <p>18 Did you ever independently do</p> <p>19 that in your position in regulatory?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 QUESTIONS BY MR. PAPANTONIO:</p> <p>22 Q. At any time.</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: Could you</p> <p>25 rephrase that question, please?</p> |
| <p style="text-align: center;">Page 327</p> <p>1 Q. And you would agree that each</p> <p>2 one of those distribution centers had other</p> <p>3 states that they serviced, is that correct,</p> <p>4 besides where they were located, right?</p> <p>5 A. Correct. They typically</p> <p>6 distribute to different states, yes.</p> <p>7 Q. And in addition to that, we</p> <p>8 would have the problem as you talked about,</p> <p>9 migration. And my partner there showed you</p> <p>10 what he called the oxy express.</p> <p>11 You've heard the oxy express,</p> <p>12 right?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: He mentioned</p> <p>15 that, yeah; he didn't show us</p> <p>16 anything.</p> <p>17 QUESTIONS BY MR. PAPANTONIO:</p> <p>18 Q. And you would agree that the</p> <p>19 oxy express you're familiar with before you</p> <p>20 came in here today. It's not the first time</p> <p>21 you've heard it, true?</p> <p>22 A. It's not the first time I've</p> <p>23 heard it.</p> <p>24 Q. Okay. And did you ever study</p> <p>25 what the effect of the oxy express was on</p> | <p style="text-align: center;">Page 329</p> <p>1 QUESTIONS BY MR. PAPANTONIO:</p> <p>2 Q. Yes, sir. Yeah.</p> <p>3 You just saw all the documents</p> <p>4 my partner went over where they're talking</p> <p>5 about the failure of the company to follow</p> <p>6 the law in suspicious orders and in having a</p> <p>7 system that allows you to keep up with what</p> <p>8 the distribution of your narcotics are.</p> <p>9 You remember that? We just</p> <p>10 spent hours on that, right?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 THE WITNESS: I remember our</p> <p>13 previous conversations.</p> <p>14 QUESTIONS BY MR. PAPANTONIO:</p> <p>15 Q. Okay. So you remember the</p> <p>16 documents my partner just showed you from the</p> <p>17 DEA, right, about the failures of your</p> <p>18 company to adequately handle the narcotics</p> <p>19 that your company was shipping all over the</p> <p>20 country?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 QUESTIONS BY MR. PAPANTONIO:</p> <p>23 Q. You remember those documents my</p> <p>24 partner just went over, right?</p> <p>25 A. I do.</p> |

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| <p>1 Q. Okay. And you also -- so my 2 question is: Did you ever go find out what 3 the net result of that was when you would 4 have an excess of your narcotics shipped to a 5 pharmaceutical company -- or excuse me, 6 scratch that.</p> <p>7 Did you ever find out what the 8 net result was in human life or death from 9 your narcotics being shipped to a pharmacy in 10 excess of what that pharmacy really needed?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 THE WITNESS: I've read many 13 articles and publications about some 14 of the effects of opioid diversion 15 across the country.</p> <p>16 QUESTIONS BY MR. PAPANTONIO:</p> <p>17 Q. But, sir, you're head of 18 regulatory, right?</p> <p>19 A. I'm one of the regulatory 20 leaders.</p> <p>21 Q. Did you ever go in the field 22 and find out what the human cost of this 23 whole issue is?</p> <p>24 MS. HENN: Objection to form.</p> <p>25</p> | <p>1 QUESTIONS BY MR. PAPANTONIO: 2 Q. Because you understand 3 diversion ends up in human -- in the loss of 4 human life. You know that, right?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 THE WITNESS: I do know that, 7 absolutely.</p> <p>8 QUESTIONS BY MR. PAPANTONIO: 9 Q. Uh-huh. And as a matter of 10 fact, before you came in here today --</p> <p>11 MR. PAPANTONIO: Would you 12 share with him 324, please. 13 (McKesson-Hartle Exhibit 89 14 marked for identification.)</p> <p>15 MS. MOORE: That would be 16 McKesson-Hartle 89.</p> <p>17 QUESTIONS BY MR. PAPANTONIO: 18 Q. Before you came in here today, 19 sir, you knew that the CDC had been -- had 20 been studying and following exactly what the 21 loss of human life was because of the sale of 22 narcotics in the United States. You knew 23 that they had been studying that, right?</p> <p>24 A. I do.</p> <p>25 Q. And so when did you take this</p> |
| <p>Page 331</p> <p>1 QUESTIONS BY MR. PAPANTONIO: 2 Q. Did you ever do that?</p> <p>3 MS. HENN: Same objection.</p> <p>4 THE WITNESS: Not go into the 5 field to study the human cost.</p> <p>6 QUESTIONS BY MR. PAPANTONIO: 7 Q. You understand this -- this 8 case isn't about statistics; it's about human 9 life, right? You understand that, right?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 THE WITNESS: I understand 12 that.</p> <p>13 QUESTIONS BY MR. PAPANTONIO: 14 Q. Okay. And so as a regulator, 15 don't you think it's important that you 16 understand what the loss of human life is due 17 to the failures of your company to follow the 18 law?</p> <p>19 Is that important to you; yes 20 or no? That's what I'm wondering here, sir.</p> <p>21 MS. HENN: Objection to form.</p> <p>22 THE WITNESS: Well, it's 23 important for us to know the impact of 24 diversion across the country.</p> <p>25</p> | <p>Page 333</p> <p>1 map that's -- you see this map in front of 2 you?</p> <p>3 A. I do.</p> <p>4 Q. When did you take it and study 5 it to find out what the net effect was in the 6 loss of human life because of diversion of 7 narcotics from your company? When is the 8 first time you did that --</p> <p>9 MS. HENN: Objection to form.</p> <p>10 QUESTIONS BY MR. PAPANTONIO: 11 Q. -- if ever?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 THE WITNESS: Can you please 14 rephrase that for me?</p> <p>15 QUESTIONS BY MR. PAPANTONIO: 16 Q. Yeah.</p> <p>17 When is the first -- have you 18 ever seen this map?</p> <p>19 A. I have. I've been at 20 conferences where it's been shared. I've 21 used it in education with others as well.</p> <p>22 Q. Okay. So you've used it with 23 education. And so as I talk to you about it, 24 you're going to understand as we go through 25 there what the loss of human life was between</p> |

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| <p>1 1999 and 2016.</p> <p>2 You've understood what the 3 human life -- loss of human life was, 4 correct, before we got here today?</p> <p>5 A. Absolutely.</p> <p>6 Q. Okay. And it's -- so here's 7 what I want to find out: You knew that in 8 1999 -- see that map up there?</p> <p>9 You knew in 1999 that is what 10 the death map looked like in 1999, correct?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 QUESTIONS BY MR. PAPANTONIO:</p> <p>13 Q. The CDC death map, you know 14 that's what it looked like in 1999, true?</p> <p>15 A. True, I've seen this before.</p> <p>16 Q. Okay. Let me ask you while 17 we're talking about that: Any of these other 18 companies that said they were here today, 19 Cardinal or CVS, were any of them at this 20 place where you talked about the death map?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 QUESTIONS BY MR. PAPANTONIO:</p> <p>23 Q. In your lecture, as you 24 describe it?</p> <p>25 MS. HENN: Same objection.</p> | <p>1 A. I have.</p> <p>2 Q. Who did you share it with?</p> <p>3 MS. HENN: Objection to form.</p> <p>4 Go ahead.</p> <p>5 THE WITNESS: I've shared 6 pieces of this with -- I think it was 7 in one of the documents -- Discount 8 Drug Mart.</p> <p>9 QUESTIONS BY MR. PAPANTONIO:</p> <p>10 Q. Discount Drug Mart. Was that 11 one of your customers?</p> <p>12 A. It is.</p> <p>13 Q. And so when did -- do you 14 remember when you shared it with them?</p> <p>15 A. When we on-boarded them. And I 16 don't remember the exact date. Earlier in 17 the -- 2017. That's an example I've shared 18 it.</p> <p>19 Q. Shared it. Okay.</p> <p>20 So if we look --</p> <p>21 A. I understand the map.</p> <p>22 Q. Okay. Good. Good.</p> <p>23 Do you know who Mr. Oriente is?</p> <p>24 A. I do.</p> <p>25 Q. He worked for you, didn't he?</p> |
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| <p>1 THE WITNESS: I didn't describe 2 it as a lecture.</p> <p>3 I'm not sure if any -- I've 4 talked with different individual 5 chains.</p> <p>6 QUESTIONS BY MR. PAPANTONIO:</p> <p>7 Q. Well, tell me who you've talked 8 to about the loss of human life regarding the 9 sale of narcotics in the United States. What 10 other companies besides you have you had a 11 conversation with besides your company?</p> <p>12 A. As part of my due diligence and 13 as part of my interaction with chains, I've 14 given presentations to nearly all of them 15 that reference in some way.</p> <p>16 Q. Okay. Do you remember showing 17 this map to the folks at CVS, ever, saying, 18 "Hey, you might want to take a look at this. 19 CDC has studied this, and the CDC can tell us 20 how many people have been dying between 1999 21 and 2016"?</p> <p>22 Did you ever do that with CVS?</p> <p>23 A. I did not share this map with 24 CVS.</p> <p>25 Q. Did you share it with anybody?</p> | <p>1 MS. HENN: Object to the form.</p> <p>2 THE WITNESS: He does.</p> <p>3 QUESTIONS BY MR. PAPANTONIO:</p> <p>4 Q. Did anybody show you the 5 deposition of Mr. Oriente before you came in 6 here today?</p> <p>7 Did anybody show you that 8 deposition where we questioned him for seven 9 hours?</p> <p>10 A. I have not seen it.</p> <p>11 Q. Did you know that Mr. Oriente 12 represented he'd never seen the death map?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 QUESTIONS BY MR. PAPANTONIO:</p> <p>15 Q. Would that surprise you if 16 somebody in charge, somebody in charge of 17 regulatory, said, "I've never even seen the 18 death map"? Would that surprise you?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: It's a little 21 surprising since it's been in some 22 decks.</p> <p>23 QUESTIONS BY MR. PAPANTONIO:</p> <p>24 Q. Uh-huh. And the reason it's 25 been published, sir, is to be able to have</p> |

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| <p>1 people like you understand what the expansion 2 of your narcotics was doing to human life in 3 this country. That's one reason the CDC did 4 this; you understand that, right? 5 MS. HENN: Objection to form. 6 QUESTIONS BY MR. PAPANTONIO: 7 Q. Did you know that? 8 A. Can you rephrase that, please? 9 Q. Yeah. 10 One reason the CDC came up with 11 this map is so the entire country could 12 understand what the expansion of narcotics 13 was doing in relation to the loss of human 14 life in this country. 15 Did you know that? 16 A. Correct, yes. 17 Q. Okay. And you know part of 18 this case is involved -- the jury is going to 19 hear economists in this case talk about what 20 the economic losses were because of that 21 human life. 22 Did you understand that that's 23 part of the issue that we're involved with 24 here today? 25 MS. HENN: Objection to form.</p> | <p>1 that live in those cities or counties? 2 MS. HENN: Objection to form. 3 THE WITNESS: No. 4 QUESTIONS BY MR. PAPANTONIO: 5 Q. All right. So if we look at 6 this map, we start in 1999. You see, that's 7 the first one. And you see down at the very 8 bottom, you see where the brown is at the 9 very bottom? It says that's 30 deaths per 10 every 100,000. 11 A. I see that. 12 Q. Right? 13 Now, when you took -- when you 14 looked at this -- I've already asked you 15 whether or not you took it on yourself to 16 find out by going to these various states and 17 counties and cities and finding out what the 18 human impact was. You said you hadn't done 19 that yourself, right? 20 MS. HENN: Objection to form. 21 THE WITNESS: Correct, I 22 haven't done that. 23 QUESTIONS BY MR. PAPANTONIO: 24 Q. Would you tell me anybody that 25 you know of in your company, McKesson, that</p> |
| <p>1 QUESTIONS BY MR. PAPANTONIO: 2 Q. Did you know that? 3 A. Yes. 4 Q. Okay. Did you go out and find 5 out what it is that -- when you have people 6 dying or people addicted to drugs in a county 7 or a city, what the economic impact is on 8 that city or county? 9 Did you do any kind of study at 10 all to find out what that economic impact is? 11 MS. HENN: Objection to form. 12 And I'll advise the witness if 13 counsel is asking about attorney work 14 product in relation to the case, he 15 should not respond. 16 MR. PAPANTONIO: I'm not asking 17 him about anything work product. 18 QUESTIONS BY MR. PAPANTONIO: 19 Q. Sir, have you talked to anybody 20 about what the economic losses are of people 21 that are addicted to drugs in a county and 22 people who have died from drug overdoses in a 23 county or a city? 24 Has anybody shared with you 25 what the economic loss is to the taxpayers</p> | <p>1 has given a speech about, "Hey, I knew about 2 the death map, and I went out and I actually 3 tried to find out what the impact was as far 4 as human life in these various counties or 5 cities"? 6 MS. HENN: Objection to form. 7 QUESTIONS BY MR. PAPANTONIO: 8 Q. Anybody? 9 A. I don't know anybody who's done 10 that specific task, to go out and inquire 11 about the costs. 12 Q. Do you think that's pretty -- 13 no, how about just -- how about inquire about 14 human life, the loss of human life? That's 15 pretty important, isn't it? 16 MS. HENN: Objection to form. 17 QUESTIONS BY MR. PAPANTONIO: 18 Q. Yes? 19 A. We all pay attention to the 20 loss of human life. 21 Q. Well, let's see how much 22 attention you paid here. Okay? 23 Because the loss of human life 24 starts in 1999. You know where Virginia -- 25 West Virginia is on that map?</p> |

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| <p>1 A. I do.</p> <p>2 Q. What would you -- how would you</p> <p>3 describe where it is on that map? Would it</p> <p>4 be the brown place right there?</p> <p>5 A. In here.</p> <p>6 Q. You're going to have to -- are</p> <p>7 you pointing to the brown area there?</p> <p>8 Can I put a circle around the</p> <p>9 brown area?</p> <p>10 A. Yeah. Right there.</p> <p>11 Q. That's West Virginia, right?</p> <p>12 A. Correct.</p> <p>13 Q. Now, that's in 1999. They're</p> <p>14 telling you by this map that 30 people for</p> <p>15 every 100,000 people have died, correct?</p> <p>16 MS. HENN: Objection to form.</p> <p>17 QUESTIONS BY MR. PAPANTONIO:</p> <p>18 Q. That's the information that map</p> <p>19 gives you in 1999.</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: Correct. That's</p> <p>22 the mortality rate.</p> <p>23 QUESTIONS BY MR. PAPANTONIO:</p> <p>24 Q. And then the -- well, the</p> <p>25 mortality rate is people dying, right?</p> | <p>1 QUESTIONS BY MR. PAPANTONIO:</p> <p>2 Q. Correct?</p> <p>3 A. Correct.</p> <p>4 Q. And nevertheless, you're</p> <p>5 telling me that you can't tell anybody -- you</p> <p>6 don't know the name of anybody who went out</p> <p>7 and did a study to find out how much your</p> <p>8 company was impacting that death, true?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 THE WITNESS: True.</p> <p>11 QUESTIONS BY MR. PAPANTONIO:</p> <p>12 Q. And your company is the number</p> <p>13 one pharmaceutical company selling narcotics</p> <p>14 in this country, correct? Number one. Isn't</p> <p>15 that what --</p> <p>16 MS. HENN: Objection to form.</p> <p>17 QUESTIONS BY MR. PAPANTONIO:</p> <p>18 Q. Isn't that what you brag about,</p> <p>19 you're number one?</p> <p>20 A. We're the largest.</p> <p>21 Q. Yeah, you're the largest.</p> <p>22 And then the other people right</p> <p>23 next to you is a company called Cardinal,</p> <p>24 correct?</p> <p>25 A. Correct.</p> |
| <p>1 A. Correct.</p> <p>2 Q. Okay. And then we look at the</p> <p>3 brown place on the map over here to the west,</p> <p>4 and that's -- where is that, New Mexico?</p> <p>5 A. Right there.</p> <p>6 Q. Is that New Mexico?</p> <p>7 A. I can't tell the outline of the</p> <p>8 state, but I...</p> <p>9 Q. Well, there's one big brown</p> <p>10 area right there.</p> <p>11 Do you understand that that --</p> <p>12 A. Yeah, that area.</p> <p>13 Q. Okay. You understand that's a</p> <p>14 county, right?</p> <p>15 A. Right. Correct.</p> <p>16 Q. And what they've -- what the</p> <p>17 map actually does is it breaks it down into</p> <p>18 counties. It doesn't just tell you a state.</p> <p>19 It says, in this county in 1999, we had 30</p> <p>20 people for every 100,000 people who were</p> <p>21 dying.</p> <p>22 That's what this map told you</p> <p>23 in 1999, right?</p> <p>24 MS. HENN: Objection to form.</p> <p>25</p> | <p>1 Q. Right?</p> <p>2 And the other one is</p> <p>3 Amerisource, true?</p> <p>4 A. True.</p> <p>5 Q. As a matter of fact, you've</p> <p>6 gone to conventions where all of you-all have</p> <p>7 been together talking about these types of</p> <p>8 issues, about the problem of drugs being</p> <p>9 spread out across the country.</p> <p>10 MS. HENN: Objection to form.</p> <p>11 QUESTIONS BY MR. PAPANTONIO:</p> <p>12 Q. You've talked about that,</p> <p>13 right?</p> <p>14 A. Members on our team have, yes.</p> <p>15 Q. Yeah.</p> <p>16 So it's not just you in a room</p> <p>17 talking about it. You've been in a room</p> <p>18 talking about it with Cardinal. You've been</p> <p>19 in a room talking about it with Amerisource,</p> <p>20 which is the second and third largest</p> <p>21 pharmaceutical narcotics distributor in the</p> <p>22 country, correct?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: Correct.</p> <p>25</p> |

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| 1 QUESTIONS BY MR. PAPANTONIO: 2 Q. Right? 3 Okay. And when you talked 4 about it, you actually talked about issues 5 about how many people are dying in these 6 various counties around the country from 7 overdose on their narcotics and your 8 narcotics, right? 9 MS. HENN: Objection to form. 10 QUESTIONS BY MR. PAPANTONIO: 11 Q. That's correct, isn't it? 12 A. Could you restate that? 13 Q. Yeah. 14 You've actually had 15 conversations with these other companies, 16 Cardinal and Amerisource, about how many 17 people were dying because of their narcotics 18 that they were selling and your narcotics 19 that you were selling. You've actually had 20 conversations about that -- 21 MR. SUDDATH: Objection. 22 MS. HENN: Objection to form. 23 QUESTIONS BY MR. PAPANTONIO: 24 Q. -- true? 25 A. I have not personally, no. | Page 346 1 never happened? 2 A. I don't recall that I've been 3 in a room with those three and having that 4 conversation. 5 Q. Have you ever had that 6 conversation in a room or out of a room, sir? 7 MS. HENN: Objection to form. 8 MR. PAPANTONIO: Give me the 9 document. 10 MR. SUDDATH: Objection. 11 QUESTIONS BY MR. PAPANTONIO: 12 Q. Have you? Yes or no? 13 MS. HENN: Objection to form. 14 QUESTIONS BY MR. PAPANTONIO: 15 Q. Have you participated in a 16 conversation with Amerisource and Cardinal 17 where you have discussed the expansion of 18 death in this country because of the sale of 19 narcotics? 20 MS. HENN: Objection to form. 21 MR. SUDDATH: Objection. 22 QUESTIONS BY MR. PAPANTONIO: 23 Q. Yes or no? 24 A. I don't recall. 25 Q. All right. Sir, let's go to |
| Page 347 1 Q. Have you been in a room where 2 that's taken place? 3 MS. HENN: Objection to form. 4 QUESTIONS BY MR. PAPANTONIO: 5 Q. I think you already said yes. 6 You want to change that? 7 MS. HENN: Objection to form. 8 QUESTIONS BY MR. PAPANTONIO: 9 Q. Have you been in a room, sir, 10 where Amerisource, Cardinal and McKesson have 11 been discussing the expansion of death in 12 this United States because of the narcotics 13 that those companies sold in this country, 14 ever? 15 MR. SUDDATH: Objection. 16 MS. HENN: Objection to form. 17 QUESTIONS BY MR. PAPANTONIO: 18 Q. Have you been there? 19 MS. HENN: Objection to form. 20 THE WITNESS: I don't believe 21 that's what I have said. 22 QUESTIONS BY MR. PAPANTONIO: 23 Q. Well, if you hadn't said it, 24 then that's fine. You don't -- that's never 25 happened. Is that your testimony, that's | Page 349 1 2000. Let's go to -- the next page is 2000. 2 Could we do something -- what 3 I'd like to do here is keep 1999 up on the 4 left, and let's go through a comparison on 5 the right. 6 So in 2000 -- let's look at 7 that. Actually, what I'd really -- 8 MR. PAPANTONIO: Can you 9 understand what I'm saying here? Can 10 you just put one and one, or is that 11 not possible? One on each -- one on 12 each screen. 13 VIDEOGRAPHER: No, they're 14 connected. 15 MR. PAPANTONIO: Okay. That's 16 fine. We can do this. 17 QUESTIONS BY MR. PAPANTONIO: 18 Q. All right. So you see -- does 19 it look like in 2000 that there's an 20 expansion of the death data taking place, or 21 do you see any difference in that between 22 1999 and 2000? 23 Do you see any appreciable 24 differences in death occurring in this 25 country? |

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| <p>1 MS. HENN: Objection to form.</p> <p>2 QUESTIONS BY MR. PAPANTONIO:</p> <p>3 Q. 2000.</p> <p>4 A. Yeah, you see different</p> <p>5 states -- or different counties are shaded</p> <p>6 different colors.</p> <p>7 Q. It's expanding, isn't it?</p> <p>8 Death in the United States is expanding, and</p> <p>9 this map shows that, doesn't it?</p> <p>10 A. Correct.</p> <p>11 Q. And still at this point, you're</p> <p>12 unable to name one person from McKesson that</p> <p>13 went out to the counties and the cities that</p> <p>14 are delineated on this death map to find out</p> <p>15 what you could do to reverse that trend of</p> <p>16 death; is that a correct statement?</p> <p>17 MS. HENN: Objection to form.</p> <p>18 THE WITNESS: Yes.</p> <p>19 QUESTIONS BY MR. PAPANTONIO:</p> <p>20 Q. All right. Let's go to the</p> <p>21 next one.</p> <p>22 Can I tell you something? I</p> <p>23 want you to understand. I'm not blaming you</p> <p>24 for all this; you understand that?</p> <p>25 A. I understand.</p> | <p>1 Do you see an expansion here?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 QUESTIONS BY MR. PAPANTONIO:</p> <p>4 Q. In 2001, would you have -- is</p> <p>5 there anything appreciable that you see that</p> <p>6 maybe we ought to know about, 2001?</p> <p>7 A. Again, different -- different</p> <p>8 shadings and different expansions.</p> <p>9 Q. And tell me what's significant,</p> <p>10 sir, about the shading and the expansions.</p> <p>11 Let's focus on that.</p> <p>12 Do you see the one right in the</p> <p>13 middle that's kind of a tan, it's -- let's</p> <p>14 call it a white. It's says there's 15.9</p> <p>15 human beings dying from drug overdoses for</p> <p>16 every 100,000 people in those areas.</p> <p>17 Do you see that tan area?</p> <p>18 A. The scale and the shading?</p> <p>19 Q. Yes, sir. Yes, sir.</p> <p>20 A. I do see that.</p> <p>21 Q. Okay. I want you to watch that</p> <p>22 as we go, okay? There's two things I'd like</p> <p>23 you to watch. I'd like you to watch that,</p> <p>24 which is about middle of the graph, right?</p> <p>25 The middle of the graft is -- graph is 14 --</p> |
| <p>Page 351</p> <p>1 Q. Okay. I'm just asking</p> <p>2 questions.</p> <p>3 A. I understand.</p> <p>4 Q. So please don't think I'm</p> <p>5 blaming you. You didn't even get there until</p> <p>6 2008.</p> <p>7 A. 2014.</p> <p>8 Q. 2014.</p> <p>9 So obviously we're not at 2014</p> <p>10 now.</p> <p>11 But what is important to me,</p> <p>12 Mr. Hartle, is this information was available</p> <p>13 to McKesson. That's all I'm trying to get at</p> <p>14 right here right now. Okay?</p> <p>15 A. Understood.</p> <p>16 Q. Okay. So we go to 2001. Tell</p> <p>17 me whether you see any appreciable difference</p> <p>18 in the amount of death taking place in the</p> <p>19 United States between 1999 -- you know what</p> <p>20 you can do? If it helps you, you can keep</p> <p>21 1999 right next to you and just tell me</p> <p>22 whether or not you see an expansion of death</p> <p>23 in human -- whether you see an expansion of</p> <p>24 human death because of narcotics in this</p> <p>25 country.</p> | <p>Page 353</p> <p>1 14 to 15.9 human deaths per hundred thousand.</p> <p>2 And I'd like you to keep your</p> <p>3 eye on that 30 at the bottom where that's 30</p> <p>4 human beings dying for every 100,000.</p> <p>5 So let's go to the next one.</p> <p>6 The next one is 2002.</p> <p>7 Would you agree, sir, as you're</p> <p>8 looking at that, as you're looking at that</p> <p>9 and making your comparison to 1999, would you</p> <p>10 agree that there's a substantial expansion of</p> <p>11 human death in the country in 2002?</p> <p>12 A. Yes, there's a continued</p> <p>13 expansion.</p> <p>14 Q. Yes, sir.</p> <p>15 And would you agree that in</p> <p>16 each one of those -- each one of those areas</p> <p>17 where we have some color beyond the blue that</p> <p>18 you had -- that your company was distributing</p> <p>19 in those areas?</p> <p>20 A. Sorry, can you rephrase that?</p> <p>21 Q. Yeah, I'm trying to take the</p> <p>22 blue out right now. I'm going to talk about</p> <p>23 the blue in just a minute.</p> <p>24 A. Okay.</p> <p>25 Q. But when we're talking about</p> |

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| <p>1 human death where the brown is involved and 2 human death where the tan is involved, you 3 would agree you had a distribution area -- 4 you distributed your narcotics in those 5 areas, correct?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 THE WITNESS: Yes, we have a 8 nationwide distribution model.</p> <p>9 QUESTIONS BY MR. PAPANTONIO:</p> <p>10 Q. Yes, sir, that's what I'm 11 trying to figure out.</p> <p>12 All right. Now, the next 13 thing -- that's 2002, and then we have 2003. 14 And in 2003, do you still 15 continue to see an expansion of human death 16 from narcotic overdoses taking place in the 17 United States? 2003.</p> <p>18 A. Yes.</p> <p>19 Q. And in those areas, those would 20 be areas that McKesson would have distributed 21 narcotics, correct?</p> <p>22 A. Again, we distribute 23 nationwide, yes.</p> <p>24 Q. When did you start distributing 25 narcotics? What year?</p> | <p>1 company was distributing in those areas, 2 correct?</p> <p>3 A. We distribute, again, 4 nationwide.</p> <p>5 Q. And then in 2005, you start 6 seeing -- do you -- can you -- it may just be 7 me, but do you start seeing there's even an 8 expansion between New Mexico and California, 9 that it seems to be more and more growing in 10 those areas on the West Coast?</p> <p>11 Do you see that expansion, sir?</p> <p>12 If you don't, it might just be 13 my imagination, but it looks like there's an 14 expansion of human death between New Mexico 15 and California.</p> <p>16 MS. HENN: Objection to form.</p> <p>17 QUESTIONS BY MR. PAPANTONIO:</p> <p>18 Q. Correct?</p> <p>19 A. I can see the shading 20 differences, yeah.</p> <p>21 Q. Yeah.</p> <p>22 And also, if you take -- take a 23 close look around. Look around where West 24 Virginia is. You see we started off with 25 just kind of that brown area and then we had</p> |
| <p>1 MS. HENN: Objection to form.</p> <p>2 THE WITNESS: I'm not 100 3 percent sure.</p> <p>4 QUESTIONS BY MR. PAPANTONIO:</p> <p>5 Q. It was around 1999, wasn't it?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 QUESTIONS BY MR. PAPANTONIO:</p> <p>8 Q. Do you know?</p> <p>9 A. I don't know.</p> <p>10 Q. Okay.</p> <p>11 A. I actually don't know.</p> <p>12 Q. I'll show you more details on 13 that, but I want to go through this map.</p> <p>14 Let's go through 2004. You see 15 an expansion of human death on that map in 16 2004?</p> <p>17 Are you able to see an 18 appreciable difference between 1999 where 19 people were dying and 2004 where people were 20 dying from narcotic overdoses in the United 21 States?</p> <p>22 A. Yes.</p> <p>23 Q. All right. And you would agree 24 that in each one of those areas where you can 25 see an appreciable difference, that your</p> | <p>1 blue? You see the tan that's expanding?</p> <p>2 MR. PAPANTONIO: Could you put 3 a circle around that, Corey?</p> <p>4 QUESTIONS BY MR. PAPANTONIO:</p> <p>5 Q. You see how that's expanding?</p> <p>6 Even right around West Virginia there's an 7 expansion area there?</p> <p>8 A. I do.</p> <p>9 Q. Okay. In -- after we're done 10 with this, I'm going to be talking about some 11 areas in West Virginia that were affected.</p> <p>12 We've talked about Landover and 13 Lakeland and Aurora, Salt Lake City. There's 14 some areas we haven't talked about, and I 15 want to talk to you about West Virginia.</p> <p>16 And do you know approximately 17 where the pharmacy -- do you know where 18 Kermit, West Virginia, is there?</p> <p>19 A. I don't know its exact location 20 in West Virginia, but --</p> <p>21 Q. You're familiar with what 22 happened in Kermit?</p> <p>23 A. I am.</p> <p>24 Q. Okay. We'll talk about that in 25 just a minute, but let's go through this map.</p> |

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| <p>1 Okay. The next one is 2006. 2 Do you have any kind of 3 appreciation in what the expansion of human 4 death was in 2006 when you compare it to 5 2000 -- to 1999? 6 MS. HENN: Objection to form. 7 THE WITNESS: Again, it 8 continues to expand. 9 QUESTIONS BY MR. PAPANTONIO: 10 Q. Yeah. If I see some and you 11 don't see it, feel free to tell me. I say, 12 you know, I may be seeing something that you 13 don't see, and that's fair enough. We see 14 things different. 15 But do you see where even that 16 area around West Virginia is continuing to 17 expand as far as human death? 18 MS. HENN: Objection to form. 19 QUESTIONS BY MR. PAPANTONIO: 20 Q. I'm in 2006. 21 A. Oh, in 2006? 22 Q. Yes, sir. 23 A. Yeah. 24 Q. When you make that comparison, 25 can you tell an appreciable difference in the</p> | <p>1 MR. PAPANTONIO: How about 2 putting up 2006 for me, would you? 3 And what I'd like to you do if 4 you could -- is there any way I could 5 get a comparison between 2016 and a 6 comparison between 2009 up on the 7 screen? Okay. 8 QUESTIONS BY MR. PAPANTONIO: 9 Q. Do you see a difference between 10 19 -- excuse me, 1999 and 2016? You see 11 how -- 2016 is the expansion of human death 12 in the United States. 13 A. Clearly I see the difference. 14 MS. HENN: Objection to form. 15 QUESTIONS BY MR. PAPANTONIO: 16 Q. You see a clear difference 17 there. 18 And not only that, but do you 19 also appreciate the fact that of the brown 20 area that has expanded, it is -- that's area 21 that is 30 -- that brown area is 30 human 22 lives per every 100,000 people and -- you see 23 that? 24 A. I do. 25 Q. And, sir, I'm not suggesting</p> |
| Page 359 | Page 361 |
| <p>1 expansion even beyond 2005? 2 A. I can see a difference, a few 3 more counties shaded different colors. 4 Q. Yes, sir. 5 Okay. And as we go forward -- 6 let's continue. 2007, you see an expansion 7 there, don't you? Look at that West Virginia 8 area. 9 MR. PAPANTONIO: Circle that 10 West Virginia area for me, would you, 11 Corey? And then also circle that 12 brown area out west. 13 Do you know where that is? See 14 that big brown area out west next 15 to -- see that? There you go. 16 QUESTIONS BY MR. PAPANTONIO: 17 Q. Did you have -- you had 18 distribution sites in each -- each area 19 that's circled there, you had distribution 20 sites, right? 21 A. We do. 22 Q. Okay. And you know what? Just 23 for matter of time, let's go ahead -- let me 24 just go ahead and show you what -- let me 25 show you what 2016 looks like.</p> | <p>1 this is -- what year did you get with the 2 company? 3 A. 2014. 4 Q. And it appears to me that what 5 you did when you came to the company is you 6 did -- you did due diligence on what had 7 occurred before you got there. As I listened 8 to your testimony this morning, it sounded 9 like you actually did due diligence to figure 10 out how you could do your job, correct? 11 MS. HENN: Objection to form. 12 THE WITNESS: Yes, and I had a 13 previous job in which I was doing -- I 14 was focused on diversion and these 15 trends as well. 16 QUESTIONS BY MR. PAPANTONIO: 17 Q. But you feel like there were 18 certain things that my partner went through 19 with you, some of those documents that nobody 20 had ever shown to you; is that a fair 21 statement? 22 MS. HENN: Objection to form. 23 THE WITNESS: There were a few 24 that I hadn't seen. 25</p> |

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| <p>1 QUESTIONS BY MR. PAPANTONIO:</p> <p>2 Q. Yeah.</p> <p>3 And in order for you to do your</p> <p>4 job properly, sir, isn't it true that you</p> <p>5 have to have information? Correct?</p> <p>6 In order for you to do your</p> <p>7 job, the people -- you have to know what</p> <p>8 happened with the people that came before</p> <p>9 you, correct?</p> <p>10 A. That's part of it, correct.</p> <p>11 Q. What did they do is the point.</p> <p>12 And I had the sense that you did that before</p> <p>13 you got to the company, true?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 THE WITNESS: Mostly while in</p> <p>16 my early stages of the company where I</p> <p>17 could ask questions and learn.</p> <p>18 QUESTIONS BY MR. PAPANTONIO:</p> <p>19 Q. Yes, sir.</p> <p>20 All right. The -- we talked</p> <p>21 about -- earlier we talked about a hierarchy,</p> <p>22 and I think it was on -- I think it was on</p> <p>23 document 7 -- well, it was number 41. If you</p> <p>24 look at 41, my partner, Troy, went over</p> <p>25 details about what the hierarchy is with the</p> | <p>1 QUESTIONS BY MR. PAPANTONIO:</p> <p>2 Q. Okay. And one thing that</p> <p>3 you --</p> <p>4 MR. PAPANTONIO: Would you put</p> <p>5 up -- would you put up photograph --</p> <p>6 this is -- this is a photograph of</p> <p>7 Mr. Oriente, and I'm putting it up</p> <p>8 there because the jury has seen his</p> <p>9 deposition, and I just want to make</p> <p>10 sure they know we're talking about the</p> <p>11 same person.</p> <p>12 Put up 1557, please.</p> <p>13 MS. HENN: And, Counsel, could</p> <p>14 you please mark it for the record, a</p> <p>15 demonstrative?</p> <p>16 MR. PAPANTONIO: Yeah, we'll</p> <p>17 mark it as a demonstrative. What is</p> <p>18 it?</p> <p>19 Okay. Well, excuse me, 1627.</p> <p>20 1627. Could you put that up on the</p> <p>21 screen?</p> <p>22 MS. HENN: Will you please mark</p> <p>23 it with a sticker?</p> <p>24 MR. PAPANTONIO: We will mark</p> <p>25 it. We will mark it.</p> |
| <p>Page 363</p> <p>1 company. And it -- 795 is my document, but I</p> <p>2 think it was marked as 41.</p> <p>3 Well, let me just ask you --</p> <p>4 you don't have to go there. It's okay. I</p> <p>5 can just ask you.</p> <p>6 The structure is Nate Hartle</p> <p>7 would be senior director. Underneath you</p> <p>8 would be Michael Oriente and a guy named</p> <p>9 Micheal Bishop and Jay Es -- what is it,</p> <p>10 Espaillat?</p> <p>11 A. Espaillat.</p> <p>12 Q. Espaillat.</p> <p>13 And then you've got another</p> <p>14 one, Adam Palmer.</p> <p>15 A. Palmer, right.</p> <p>16 Q. As a matter of fact, when you</p> <p>17 got there to the company, you took a look at</p> <p>18 some of these folks that were in charge of</p> <p>19 trying to make sure that -- well, you took a</p> <p>20 look at the performance of some of these</p> <p>21 other people that were working under you,</p> <p>22 right?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: I did as I built</p> <p>25 the team.</p> | <p>Page 365</p> <p>1 MS. MOORE: McKesson-Hartle</p> <p>2 149.</p> <p>3 (McKesson-Hartle Exhibit 149</p> <p>4 marked for identification.)</p> <p>5 QUESTIONS BY MR. PAPANTONIO:</p> <p>6 Q. That fellow worked for you,</p> <p>7 didn't he?</p> <p>8 A. He works for me, correct.</p> <p>9 Q. And he worked at a place -- you</p> <p>10 remember all of the discussion about Landover</p> <p>11 that you had with my partner today?</p> <p>12 A. Correct.</p> <p>13 Q. That's where he was -- he was</p> <p>14 director of Landover --</p> <p>15 MS. HENN: Objection to form.</p> <p>16 QUESTIONS BY MR. PAPANTONIO:</p> <p>17 Q. -- right? That was a</p> <p>18 distribution center.</p> <p>19 A. Right.</p> <p>20 Q. He was a director of Landover,</p> <p>21 correct?</p> <p>22 A. He was in that facility, yes.</p> <p>23 Q. Yeah.</p> <p>24 And he was the head guy in</p> <p>25 charge in Landover, true, or were you also</p> |

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| <p>1 involved with Landover?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 THE WITNESS: I was not.</p> <p>4 QUESTIONS BY MR. PAPANTONIO:</p> <p>5 Q. Yeah, Landover had already been</p> <p>6 closed by the time you got there to the</p> <p>7 company, right?</p> <p>8 A. Yes.</p> <p>9 Q. And it was closed, sir, because</p> <p>10 there were so many violations of law that</p> <p>11 were coming out of Landover.</p> <p>12 MS. HENN: Objection to form.</p> <p>13 QUESTIONS BY MR. PAPANTONIO:</p> <p>14 Q. You know that it was closed in</p> <p>15 2012 because of that, right?</p> <p>16 MS. HENN: Objection to form.</p> <p>17 THE WITNESS: I know that it</p> <p>18 was closed.</p> <p>19 QUESTIONS BY MR. PAPANTONIO:</p> <p>20 Q. It was closed 2012, right?</p> <p>21 A. If that's the specific time</p> <p>22 frame before I got there.</p> <p>23 Q. Yeah. Yes, sir, it's 2012.</p> <p>24 And this guy, this Oriente who</p> <p>25 we're looking at right here, he was the one</p> | <p>1 THE WITNESS: He performs due</p> <p>2 diligence and makes threshold</p> <p>3 decisions, yes.</p> <p>4 QUESTIONS BY MR. PAPANTONIO:</p> <p>5 Q. And you've got a lot of</p> <p>6 confidence in his ability to do that, right?</p> <p>7 A. I do have confidence in his</p> <p>8 ability.</p> <p>9 Q. Why do you have so much</p> <p>10 confidence in his ability?</p> <p>11 Good integrity? Do you think</p> <p>12 he has good integrity?</p> <p>13 A. I believe so.</p> <p>14 Q. How about Bishop, good</p> <p>15 integrity?</p> <p>16 MS. HENN: Objection to form.</p> <p>17 THE WITNESS: I know we'll talk</p> <p>18 about Bishop before. I've --</p> <p>19 performance -- did some performance</p> <p>20 management with him.</p> <p>21 QUESTIONS BY MR. PAPANTONIO:</p> <p>22 Q. Good integrity?</p> <p>23 Integrity matters in your</p> <p>24 company, doesn't it?</p> <p>25 MS. HENN: Objection to form.</p> |
| <p>1 in charge of making the decisions about the</p> <p>2 sale of narcotics from your company to</p> <p>3 pharmacies in the Landover -- I mean, out of</p> <p>4 the Landover facility, right?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 THE WITNESS: I believe that's</p> <p>7 true.</p> <p>8 QUESTIONS BY MR. PAPANTONIO:</p> <p>9 Q. And after it was closed, where</p> <p>10 did you -- where did he go, do you know?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 THE WITNESS: He became a</p> <p>13 director of regulatory affairs.</p> <p>14 QUESTIONS BY MR. PAPANTONIO:</p> <p>15 Q. Okay. And could you -- I'm</p> <p>16 sorry, go ahead.</p> <p>17 A. He was a director of regulatory</p> <p>18 affairs. He ultimately came to the RNA team.</p> <p>19 Q. He's still there. He's still</p> <p>20 there, isn't he?</p> <p>21 A. He is.</p> <p>22 Q. He's still making decisions</p> <p>23 about the sale of narcotics to people all</p> <p>24 over this country, right? True?</p> <p>25 MS. HENN: Objection to form.</p> | <p>1 THE WITNESS: It does.</p> <p>2 QUESTIONS BY MR. PAPANTONIO:</p> <p>3 Q. Don't you even have -- don't</p> <p>4 you even have little jingle about integrity?</p> <p>5 What is -- some kind of mission statement.</p> <p>6 Do you know what it is?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 QUESTIONS BY MR. PAPANTONIO:</p> <p>9 Q. What is that mission statement</p> <p>10 about integrity?</p> <p>11 A. The ICARE principles.</p> <p>12 Q. ICARE, that's right.</p> <p>13 And ICARE, the first thing in</p> <p>14 it is integrity, right?</p> <p>15 A. Right.</p> <p>16 Q. And integrity really matters</p> <p>17 when you're dealing with narcotics, the sale</p> <p>18 of narcotics, around the country. That's</p> <p>19 pretty important, isn't it?</p> <p>20 A. It is.</p> <p>21 Q. And as a matter of fact, it's</p> <p>22 such -- it is such part of your mission</p> <p>23 statement that you actually put it on your</p> <p>24 documents, the -- what do you call it? I</p> <p>25 what?</p> |
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| <p style="text-align: right;">Page 370</p> <p>1 A. It's called ICARE. 2 Q. ICARE. 3 And it's called the ICARE 4 program, and that's the mission statement for 5 your company, right? 6 MS. HENN: Objection to form. 7 QUESTIONS BY MR. PAPANTONIO: 8 Q. It's important, isn't it? 9 A. It's important. 10 Q. Because if integrity starts 11 failing, then you have people that might be 12 out there breaking the law with narcotics, 13 correct? 14 MS. HENN: Objection to form. 15 THE WITNESS: It's a 16 possibility you could have people 17 breaking the law, but I wouldn't 18 characterize it that way. Integrity 19 is absolutely important. 20 QUESTIONS BY MR. PAPANTONIO: 21 Q. All right. And so -- 22 A. That's why -- 23 Q. I'm sorry, go ahead. Are you 24 finished? 25 A. We'll talk about it later, I'm</p> | <p style="text-align: right;">Page 372</p> <p>1 that weak link, if it's in the northern 2 United States or if the weak link is the 3 western United States, that weak link has an 4 impact on whether or not dangerous narcotics 5 can be wrongfully diverted in this country, 6 true, if people aren't doing their job? 7 MS. HENN: Objection to form. 8 THE WITNESS: Could you 9 rephrase that, please? 10 QUESTIONS BY MR. PAPANTONIO: 11 Q. Yes, sir. 12 If -- you have to evaluate 13 whether people are doing their job in your 14 role? I mean, you're top of the food chain, 15 aren't you? 16 MS. HENN: Objection to form. 17 THE WITNESS: I have to 18 evaluate people, certainly. 19 QUESTIONS BY MR. PAPANTONIO: 20 Q. Yeah. And you try to do it 21 honestly -- 22 A. I do. 23 Q. -- right? 24 Because you try to evaluate 25 those people according to what your mission</p> |
| <p style="text-align: right;">Page 371</p> <p>1 sure. 2 Q. Well, let's go ahead and talk 3 about it right now, okay? 4 You actually -- 5 MR. PAPANTONIO: Could you put 6 up -- could you put up 1564? 7 You're going to have mark that 8 for them. It's 1564, and I don't know 9 what exhibit list -- what the number 10 is going to be. 11 (McKesson-Hartle Exhibit 161 12 marked for identification.) 13 QUESTIONS BY MR. PAPANTONIO: 14 Q. Why do you -- 15 MS. MOORE: McKesson-Hartle 16 161. 17 QUESTIONS BY MR. PAPANTONIO: 18 Q. Let me say something clear 19 here. I'm not questioning your integrity -- 20 A. Right. 21 Q. -- okay, just so you know that. 22 But you have to evaluate people 23 who work with you, don't you? 24 A. I do. 25 Q. And if there's a weak link,</p> | <p style="text-align: right;">Page 373</p> <p>1 statement is, I take it? 2 A. I do. 3 Q. Okay. Well, let's look at this 4 evaluation. This is -- this is employee 5 Micheal Bishop. 6 Do you see that? 7 A. I do. 8 Q. First paragraph says, "Micheal 9 Bishop" -- and tell me again, what does 10 Micheal Bishop do? 11 A. He's a regulatory affairs 12 manager. 13 Q. Yeah. 14 And he was fired from the 15 company, right? 16 A. He was not. 17 Q. He wasn't fired? 18 A. He left on his own. 19 Q. Would you have fired him? 20 Given the chance, would you 21 have fired Micheal Bishop? 22 MS. HENN: Objection to form. 23 QUESTIONS BY MR. PAPANTONIO: 24 Q. You were his manager. 25 Would you have fired Micheal</p> |

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| <p>1 Bishop because of his conduct?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 QUESTIONS BY MR. PAPANTONIO:</p> <p>4 Q. Before we go into this.</p> <p>5 A. I will explain once we get into</p> <p>6 it the performance improvement plan process,</p> <p>7 and that is the likely outcome that was going</p> <p>8 to happen.</p> <p>9 Q. Would you have fired him?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. That's what I'm</p> <p>12 wondering.</p> <p>13 And how long was he with the</p> <p>14 company?</p> <p>15 A. 15 years or so.</p> <p>16 Q. And that was mostly before you</p> <p>17 got there, to be -- you know, let's be clear</p> <p>18 about it.</p> <p>19 A. Right.</p> <p>20 Q. He was there before you were</p> <p>21 there?</p> <p>22 A. Right.</p> <p>23 Q. He was doing things,</p> <p>24 distributing in his job in distribution, that</p> <p>25 you had nothing to do with. Can we agree to</p> | <p>1 of those things are vitally important when a</p> <p>2 person's making a decision about the</p> <p>3 distribution drugs -- of narcotic drugs in</p> <p>4 this country. That's important, isn't it?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 QUESTIONS BY MR. PAPANTONIO:</p> <p>7 Q. Every one of those things are</p> <p>8 important.</p> <p>9 In a minute, you know what I'm</p> <p>10 going to do? I'm going to let you say what</p> <p>11 you want to say, but how about staying with</p> <p>12 me, just let me ask you some questions.</p> <p>13 A. I will. I will say that that</p> <p>14 is important.</p> <p>15 Q. Okay.</p> <p>16 A. But I do want to clarify one</p> <p>17 thing, and I'll explain more later.</p> <p>18 Q. That's okay. I don't -- I want</p> <p>19 you to explain it.</p> <p>20 A. He did not have the</p> <p>21 decision-making authority during this time --</p> <p>22 Q. Okay. Let me talk --</p> <p>23 A. -- to make decisions.</p> <p>24 Q. Let me talk some more. Okay?</p> <p>25 A. Okay.</p> |
| <p>1 that?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 QUESTIONS BY MR. PAPANTONIO:</p> <p>4 Q. Before you got there,</p> <p>5 obviously.</p> <p>6 A. Absolutely.</p> <p>7 Q. All right. So you took a look</p> <p>8 at Micheal Bishop. It says, "Micheal Bishop</p> <p>9 has not been meeting expectations in his</p> <p>10 position as a regulatory affairs manager.</p> <p>11 Micheal has not demonstrated the expected</p> <p>12 level of accuracy, quality of work or</p> <p>13 understanding of the program needed in his</p> <p>14 role." That's the first sentence.</p> <p>15 Now, I want to go to a couple</p> <p>16 parts here because I want to ask you a</p> <p>17 specific question about a couple of parts.</p> <p>18 A. Okay.</p> <p>19 Q. If you go down to the bottom of</p> <p>20 the -- the bottom of that page, Mr. Hartle,</p> <p>21 it says, "The regular feedback has continued</p> <p>22 to be in the area of accuracy/quality of</p> <p>23 work, communication, critical thinking and</p> <p>24 accountability."</p> <p>25 You would agree that every one</p> | <p>1 Q. It says, "I have discussed with</p> <p>2 Micheal the importance of his work being</p> <p>3 accurate because of the risk associated with</p> <p>4 the setting of regulatory thresholds."</p> <p>5 Do you see that?</p> <p>6 A. I do.</p> <p>7 Q. He was in charge of regulatory</p> <p>8 thresholds, wasn't he?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 THE WITNESS: He played a role</p> <p>11 in pulling information and data.</p> <p>12 QUESTIONS BY MR. PAPANTONIO:</p> <p>13 Q. Right.</p> <p>14 And that's what my partner,</p> <p>15 Troy Rafferty, has been asking you about all</p> <p>16 morning?</p> <p>17 A. Right.</p> <p>18 Q. Even things that you didn't</p> <p>19 have anything to do with, but he's been</p> <p>20 asking you questions about regulatory</p> <p>21 threshold because that's so vitally</p> <p>22 important, right?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: We did have those</p> <p>25 conversations.</p> |

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| <p>1 QUESTIONS BY MR. PAPANTONIO:</p> <p>2 Q. Yes, sir.</p> <p>3 And so -- so here we see that</p> <p>4 we got a guy that you agree should have been</p> <p>5 fired. When -- he should have been fired</p> <p>6 years ago, before -- before you did this. He</p> <p>7 should have been fired a long time ago,</p> <p>8 right?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 THE WITNESS: I can't say that</p> <p>11 exactly.</p> <p>12 QUESTIONS BY MR. PAPANTONIO:</p> <p>13 Q. Okay. Well, you don't have to</p> <p>14 say it. I'm just asking the question, and</p> <p>15 you feel free to respond to the question.</p> <p>16 It says -- the next page, if</p> <p>17 you go to it, it says -- it says down at the</p> <p>18 bottom of that second page: "After being on</p> <p>19 the team for almost three years, Micheal has</p> <p>20 not demonstrated a complete understanding of</p> <p>21 the CSMP, and he continued to make basic</p> <p>22 mistakes or inaccurately communicate routine</p> <p>23 processes or requirements."</p> <p>24 Correct?</p> <p>25 MS. HENN: Objection to form.</p> | <p>1 A. Investigative report.</p> <p>2 Q. Yeah. He actually changed it,</p> <p>3 didn't he?</p> <p>4 A. He did.</p> <p>5 Q. He changed it.</p> <p>6 And that's unlawful to do that.</p> <p>7 That's breaking the law, correct?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 QUESTIONS BY MR. PAPANTONIO:</p> <p>10 Q. That's actually breaking the</p> <p>11 law. He can't go changing reports like that,</p> <p>12 can he?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: I wouldn't</p> <p>15 characterize that as breaking the law.</p> <p>16 QUESTIONS BY MR. PAPANTONIO:</p> <p>17 Q. Yeah, if he --</p> <p>18 A. I mean, he had an explanation</p> <p>19 that he talked through in terms of what he</p> <p>20 thought he was doing.</p> <p>21 Q. Right.</p> <p>22 But if he did it and you</p> <p>23 question his integrity, that's a problem,</p> <p>24 isn't it?</p> <p>25 A. That's why I was holding him</p> |
| Page 379 | Page 381 |
| <p>1 QUESTIONS BY MR. PAPANTONIO:</p> <p>2 Q. Do you see that down at the</p> <p>3 bottom?</p> <p>4 A. I see it.</p> <p>5 Q. Okay. Then we go to the next</p> <p>6 one. It says -- next page, middle of the</p> <p>7 page, it says, "Immediately after the issue</p> <p>8 was identified, he admitted to his failure to</p> <p>9 review the data on a team call. He changed</p> <p>10 the IR to remove any information about his</p> <p>11 role with the data review."</p> <p>12 Do you see that?</p> <p>13 MS. HENN: Let's just have that</p> <p>14 read back or if you could repeat it,</p> <p>15 please, because we're having --</p> <p>16 MR. PAPANTONIO: Yeah, it</p> <p>17 says -- I feel like I'm in a clown car</p> <p>18 here. Okay?</p> <p>19 MS. HENN: Thank you, sir.</p> <p>20 QUESTIONS BY MR. PAPANTONIO:</p> <p>21 Q. It says, "Immediately after the</p> <p>22 issue was identified and he admitted to his</p> <p>23 failure to review the data on a team call, he</p> <p>24 changed the IR."</p> <p>25 What is the IR?</p> | <p>1 accountable.</p> <p>2 Q. Okay. And he said he "changed</p> <p>3 the IR to remove any information about his</p> <p>4 role with the data review," right?</p> <p>5 That's what it says, right?</p> <p>6 A. That's what it says.</p> <p>7 Q. And then if we go to -- I'm not</p> <p>8 done with Micheal Bishop, so stay with me</p> <p>9 just a minute here.</p> <p>10 MR. PAPANTONIO: Show them,</p> <p>11 please, 1579.</p> <p>12 QUESTIONS BY MR. PAPANTONIO:</p> <p>13 Q. Now, I want to -- you</p> <p>14 understand before you got -- before you got</p> <p>15 to McKesson, there was a lot of water under</p> <p>16 the bridge about the sale of narcotics all</p> <p>17 over the country. There had been a lot of</p> <p>18 things that occurred with the company in the</p> <p>19 sale of narcotics --</p> <p>20 A. Right.</p> <p>21 Q. -- true?</p> <p>22 MS. HENN: Objection to form.</p> <p>23 QUESTIONS BY MR. PAPANTONIO:</p> <p>24 Q. Matter of fact, you weren't</p> <p>25 there in 2008 when they were punished for</p> |

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| <p style="text-align: right;">Page 382</p> <p>1 not -- for breaking the law. They were 2 punished for not reporting suspicious orders. 3 You weren't there when that 4 happened, right? 5 MS. HENN: Objection to form. 6 THE WITNESS: I was not there. 7 QUESTIONS BY MR. PAPANTONIO: 8 Q. But Mr. Bishop was, wasn't he? 9 A. He was. 10 Q. Yeah. And Mr. Oriente was, 11 wasn't he? 12 A. He was. 13 Q. Okay. Let's go on to this -- 14 MS. MOORE: McKesson-Hartle 15 162. 16 (McKesson-Hartle Exhibit 162 17 marked for identification.) 18 QUESTIONS BY MR. PAPANTONIO: 19 Q. And, sir, here, this is Micheal 20 Bishop, and again, you're doing your job 21 here, correct? You're trying to evaluate 22 this person and say, you know, "What kind of 23 job are they doing. Do we need them around 24 here," right? 25 A. Correct.</p> | <p style="text-align: right;">Page 384</p> <p>1 QUESTIONS BY MR. PAPANTONIO: 2 Q. Okay. So then we go -- down 3 here at the bottom it says, "Our continued 4 concerns were related to accuracy" -- do you 5 see that? -- "quality of work, communication, 6 listening, thinking before he acts, a lack of 7 understanding our core CSMP basics, and 8 taking accountability to his actions." 9 It says, "More recently I have 10 continued to question Micheal's integrity, as 11 many times during the conversation or team 12 calls he deflects blame to others. He rarely 13 takes accountability for his actions, and he 14 often shares conflicting messages to his -- 15 or changes his story. Recently an issue 16 surfaced where we know he falsified a company 17 document to hide a mistake, and he made our 18 nonexempt team member uncomfortable." 19 Now, let me stop right there. 20 You wrote this report so somebody up above 21 you could review it, right? 22 You didn't write this for 23 yourself, did you? 24 MS. HENN: Objection to form. 25</p> |
| <p style="text-align: right;">Page 383</p> <p>1 Q. All right. So it says, 2 "Micheal Bishop started with regulatory 3 affairs as a manager in the fall of 2014." 4 It goes, "At the time" -- I'm 5 sorry. I'm right here right now. I'm in the 6 middle of the second paragraph. 7 "At the same time, I was taking 8 on more responsibility for the larger 9 regulatory affairs team, so in the fall 10 of 2016 we changed reporting relationships. 11 In partnership with my SVP and HR partner, we 12 moved Micheal Bishop over to become a direct 13 report of DRA Michael Oriente." 14 Was that a move up for Bishop? 15 A. No. No. 16 Q. Okay. But he was working with 17 Oriente, correct, Michael Oriente? 18 A. He was. 19 Q. So he would have been working 20 in Landover? Landover? Was he working 21 Landover? 22 A. No. 23 MS. HENN: Objection to form. 24 THE WITNESS: No. No. 25</p> | <p style="text-align: right;">Page 385</p> <p>1 QUESTIONS BY MR. PAPANTONIO: 2 Q. You wanted somebody else in 3 management to take a look at this report, 4 didn't you? 5 MS. HENN: Objection to form. 6 THE WITNESS: I wrote it for 7 both. I wrote it to document as I had 8 been coaching him -- 9 QUESTIONS BY MR. PAPANTONIO: 10 Q. Right. 11 A. -- and holding him accountable, 12 and I also wrote it to be able to share with 13 our employee relations teams and -- 14 Q. Right. 15 A. -- as I escalated issues. 16 Q. And so you wanted management to 17 understand what kind of person they'd had out 18 there on the field for -- how many years was 19 it he was on the field? 20 MS. HENN: Objection to form. 21 QUESTIONS BY MR. PAPANTONIO: 22 Q. How many years? 23 A. About 15, but he was located in 24 a centralized -- he wasn't in the field. He 25 was in a centralized headquarters-like office</p> |

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| <p>1 down in Texas.</p> <p>2 Q. Oh, he was in headquarters?</p> <p>3 A. He was in a location down in</p> <p>4 Texas that was a headquarters-like location.</p> <p>5 Q. All right. So tell me, after</p> <p>6 you talked about his lack of integrity, how</p> <p>7 long did Micheal -- how long did Mr. Bishop</p> <p>8 stick around?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 QUESTIONS BY MR. PAPANTONIO:</p> <p>11 Q. How many years? How many years</p> <p>12 did he stay with McKesson after that report</p> <p>13 was written about his integrity?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 THE WITNESS: That happened in</p> <p>16 2017, and he left in early 2018.</p> <p>17 QUESTIONS BY MR. PAPANTONIO:</p> <p>18 Q. And did you recommend that he</p> <p>19 leave?</p> <p>20 A. When he left?</p> <p>21 Q. Yeah.</p> <p>22 A. He left on his own, but I had</p> <p>23 recommended that in another couple weeks when</p> <p>24 the performance period ran out that we would</p> <p>25 terminate his employment.</p> | <p>1 A. He was on a variety of</p> <p>2 different teams.</p> <p>3 Q. Was he in sales?</p> <p>4 A. He was on a centralized support</p> <p>5 function. It wasn't sales.</p> <p>6 Q. Supporting sales, though,</p> <p>7 right? He was supporting a sales</p> <p>8 organization that sold all over the United</p> <p>9 States, correct?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 QUESTIONS BY MR. PAPANTONIO:</p> <p>12 Q. Yes?</p> <p>13 A. Technically he was in a</p> <p>14 support.</p> <p>15 Q. Yeah.</p> <p>16 So he was one of the people</p> <p>17 that were -- that were technically supporting</p> <p>18 the -- technically supporting the sales force</p> <p>19 in the United States for McKesson, correct?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 QUESTIONS BY MR. PAPANTONIO:</p> <p>22 Q. Yes?</p> <p>23 A. He was supporting different</p> <p>24 components of the broader organization.</p> <p>25 Q. All right. Well, let's -- you</p> |
| <p>1 Q. And then -- so you made the</p> <p>2 recommendation he be fired, right?</p> <p>3 A. That's where it was heading.</p> <p>4 Q. But he had been there 15 years</p> <p>5 prior to that time?</p> <p>6 A. Correct.</p> <p>7 Q. And so in those 15 years -- did</p> <p>8 you go back and review any work that he had</p> <p>9 done in 15 years to see whether there was a</p> <p>10 pattern to him raising thresholds</p> <p>11 inappropriately or failing to write</p> <p>12 suspicious orders inappropriately or</p> <p>13 distributing areas in excess of volume?</p> <p>14 Did you go back and find out</p> <p>15 how much damage, if any, Mr. Bishop had done</p> <p>16 throughout the United States?</p> <p>17 MS. HENN: Objection to form.</p> <p>18 THE WITNESS: He wasn't in the</p> <p>19 regulatory affairs department prior to</p> <p>20 that.</p> <p>21 QUESTIONS BY MR. PAPANTONIO:</p> <p>22 Q. Yeah.</p> <p>23 A. So I did not go back.</p> <p>24 Q. What was he doing prior to</p> <p>25 that?</p> | <p>1 were asked earlier about -- I don't know what</p> <p>2 this is. It's this map. It's 88 -- mine is</p> <p>3 872. It's the McKesson --</p> <p>4 MR. PAPANTONIO: What was that</p> <p>5 actually marked?</p> <p>6 MS. MOORE: McKesson-Hartle 100</p> <p>7 is his copy.</p> <p>8 MR. PAPANTONIO: Okay. This is</p> <p>9 McKesson-Hartle 100.</p> <p>10 (McKesson-Hartle Exhibit 100</p> <p>11 marked for identification.)</p> <p>12 QUESTIONS BY MR. PAPANTONIO:</p> <p>13 Q. Sir, I was -- I listened to you</p> <p>14 when you said that you thought there was a</p> <p>15 responsibility to know what's going on</p> <p>16 news-wise around the country. If you know</p> <p>17 what a reporter is saying about a particular</p> <p>18 area, that's important information to you,</p> <p>19 and I think you said -- you explained that to</p> <p>20 my partner. You said, yes, that's important;</p> <p>21 yes, I keep up with it; no, I can't tell you</p> <p>22 what everybody else does, but I do. That's I</p> <p>23 think what you said.</p> <p>24 A. Correct.</p> <p>25 Q. If I didn't characterize that</p> |

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| <p>1 right --</p> <p>2 MS. HENN: Objection to form.</p> <p>3 QUESTIONS BY MR. PAPANTONIO:</p> <p>4 Q. Right?</p> <p>5 A. Yeah, as part of my entire</p> <p>6 career, I want to stay in tune with --</p> <p>7 Q. And you saw where my partner</p> <p>8 actually showed you that you were doing what</p> <p>9 the DEA told you to do, which was to stay</p> <p>10 abreast of what the newspaper reports are in</p> <p>11 any given area about problems that there may</p> <p>12 be with opioids.</p> <p>13 MS. HENN: Objection to form.</p> <p>14 QUESTIONS BY MR. PAPANTONIO:</p> <p>15 Q. Do you remember that section</p> <p>16 that he showed you where the DEA said this is</p> <p>17 something you should do?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. So did you know to do</p> <p>20 that because the DA directed you -- DEA</p> <p>21 directed you or did you just think that was a</p> <p>22 good idea to stay abreast of what was going</p> <p>23 on with news reports from around the country?</p> <p>24 MS. HENN: Objection to form.</p> <p>25 THE WITNESS: That's what I do</p> | <p>Page 390</p> <p>1 understand what's happening.</p> <p>2 QUESTIONS BY MR. PAPANTONIO:</p> <p>3 Q. Yes, sir. Okay. Good.</p> <p>4 As a matter of fact, in this</p> <p>5 document you have in front of you, if you</p> <p>6 will take a look at it -- by the way, did</p> <p>7 you -- did you have anything to do in</p> <p>8 preparing this document?</p> <p>9 Does this look like something</p> <p>10 you prepared? It's a McKesson document.</p> <p>11 A. I did not prepare this. When I</p> <p>12 came on board, it was being used and shared,</p> <p>13 and I used --</p> <p>14 Q. Okay.</p> <p>15 A. -- versions of that with</p> <p>16 chains.</p> <p>17 Q. And as a matter of fact, this</p> <p>18 document actually reiterated what you, I</p> <p>19 think -- from what I'm understanding what</p> <p>20 you're saying, this document reiterated what</p> <p>21 you were doing on your own, and that is</p> <p>22 seeking out information in various news</p> <p>23 sources to find out what's going on in the</p> <p>24 country.</p> <p>25 This document -- if you'll go</p> |
| <p>Page 391</p> <p>1 as part of my information gathering.</p> <p>2 QUESTIONS BY MR. PAPANTONIO:</p> <p>3 Q. Okay. Explain to the jury,</p> <p>4 because this might be the first time they</p> <p>5 hear this. Explain to the jury why that</p> <p>6 information gathering of staying abreast of</p> <p>7 what newspaper articles are reporting might</p> <p>8 be important.</p> <p>9 Go ahead, Mr. Hartle.</p> <p>10 A. Okay. Could you ask that</p> <p>11 question again?</p> <p>12 Q. Yes, sir.</p> <p>13 Explain to the jury, if you</p> <p>14 would, why this process that -- I don't want</p> <p>15 to judge whether you did it on your own or</p> <p>16 whether the DEA told you to do it, but this</p> <p>17 process of where you think gathering</p> <p>18 information from news sources is important.</p> <p>19 Explain to them why that's important.</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: It's important to</p> <p>22 help understand the landscape, what's</p> <p>23 going on, different -- different</p> <p>24 information you can gain to help you</p> <p>25 better run your program or better</p> | <p>Page 393</p> <p>1 to .3. See that .3 there? You see it</p> <p>2 actually goes -- it actually does what you're</p> <p>3 talking about. This document actually is a</p> <p>4 presentation that's being made to somebody</p> <p>5 through McKesson.</p> <p>6 Do you know who this</p> <p>7 presentation would be made to?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 QUESTIONS BY MR. PAPANTONIO:</p> <p>10 Q. Would it be salespeople?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 THE WITNESS: I think it was</p> <p>13 used in a variety of ways. I know it</p> <p>14 was given to, you know, our chain</p> <p>15 partners. I've given part of this</p> <p>16 presentation, versions of it, to</p> <p>17 external partners as well.</p> <p>18 QUESTIONS BY MR. PAPANTONIO:</p> <p>19 Q. Okay. And one thing -- I'm</p> <p>20 sorry, external partners would be your chain</p> <p>21 partners?</p> <p>22 A. Chain partners, sure.</p> <p>23 Q. Okay. Those are people you</p> <p>24 sold to, just so the jury understands. Those</p> <p>25 are your customers?</p> |

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| <p>1 A. Customers.</p> <p>2 Q. All right. And so in there,</p> <p>3 you actually -- this is -- whether you</p> <p>4 accomplished this -- I don't know whether you</p> <p>5 accomplished it or not, but this document</p> <p>6 actually goes -- and it actually says,</p> <p>7 "Current Landscape." You see at the top of</p> <p>8 it, "Current Landscape, Epidemic." And then</p> <p>9 it says, "Every component of the distribution</p> <p>10 chain has been breached."</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. That's McKesson saying that,</p> <p>14 and this is what you would talk about when</p> <p>15 you would make presentations. You personally</p> <p>16 would talk about these very things we're</p> <p>17 about to talk about.</p> <p>18 MS. HENN: Objection to form.</p> <p>19 QUESTIONS BY MR. PAPANTONIO:</p> <p>20 Q. "Every component of the</p> <p>21 distribution chain has been breached."</p> <p>22 Do you see that?</p> <p>23 A. Yeah, exactly.</p> <p>24 Q. Okay. And you see the</p> <p>25 newspaper articles underneath there?</p> | <p>1 I mean, they drive around in</p> <p>2 the areas where they live, right?</p> <p>3 A. True.</p> <p>4 MS. HENN: Objection to form.</p> <p>5 QUESTIONS BY MR. PAPANTONIO:</p> <p>6 Q. I mean, we're just using logic</p> <p>7 here. But if you have a salesperson on</p> <p>8 the -- you've got a -- you've got a</p> <p>9 salesperson here on the -- on the ground,</p> <p>10 that salesperson is driving around the City</p> <p>11 of Kermit, if that's who they're servicing,</p> <p>12 correct?</p> <p>13 In other words, they live</p> <p>14 there. They live in that area, right?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 THE WITNESS: Or near there,</p> <p>17 yes.</p> <p>18 QUESTIONS BY MR. PAPANTONIO:</p> <p>19 Q. Or near. They live there or</p> <p>20 near there.</p> <p>21 So if they're driving in the</p> <p>22 area in a place like Kermit -- and we're</p> <p>23 going to talk about Kermit in just a minute.</p> <p>24 But they're able to actually see the</p> <p>25 newspapers -- let's talk about what they can</p> |
| <p style="text-align: center;">Page 395</p> <p>1 A. I do.</p> <p>2 Q. Okay. The -- here's what --</p> <p>3 here's what I want to be clear about, because</p> <p>4 I'm not -- it's just not clear to me as I</p> <p>5 listened to everything. Maybe you can clear</p> <p>6 this up.</p> <p>7 If you've got -- let's say</p> <p>8 you've got -- let's get Kermit.</p> <p>9 MR. PAPANTONIO: Can I get this</p> <p>10 thing on here just -- we're going to</p> <p>11 go back to that same document.</p> <p>12 QUESTIONS BY MR. PAPANTONIO:</p> <p>13 Q. Here's Kermit.</p> <p>14 Now, salespeople for McKesson</p> <p>15 you have on the ground around, say, Kermit,</p> <p>16 West Virginia, correct? They live around the</p> <p>17 area, true?</p> <p>18 A. We have sales --</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: -- sales teams</p> <p>21 out in the field.</p> <p>22 QUESTIONS BY MR. PAPANTONIO:</p> <p>23 Q. Yes, sir.</p> <p>24 And one thing they do is they</p> <p>25 drive around in various areas, true?</p> | <p style="text-align: center;">Page 397</p> <p>1 accomplish.</p> <p>2 A, they can see the news, true?</p> <p>3 And that's what you've been talking about,</p> <p>4 the news is important, true?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 THE WITNESS: True.</p> <p>7 QUESTIONS BY MR. PAPANTONIO:</p> <p>8 Q. And they're able to see if --</p> <p>9 they're able to drive around and they -- my</p> <p>10 gosh, they see a pill mill, right? They see</p> <p>11 people standing outside a pill mill, right?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 QUESTIONS BY MR. PAPANTONIO:</p> <p>14 Q. I mean, if there's a pill mill</p> <p>15 there, they can see it, true?</p> <p>16 A. They could see that.</p> <p>17 Q. And as a matter of fact, the --</p> <p>18 you've actually seen pictures and actually</p> <p>19 you have given talks, I think, about what</p> <p>20 these pill mills look like, haven't you?</p> <p>21 You've actually seen pictures</p> <p>22 of what these pill mills look like, true?</p> <p>23 A. I have.</p> <p>24 Q. As a matter of fact, you have a</p> <p>25 pill mill -- let's draw a pill mill here.</p> |

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| <p>1 A pill mill, you'll sometimes 2 see people actually lined up to get into the 3 pill mill sometimes at eight o'clock in the 4 morning, right? 5 A. You can see that. I've seen 6 pictures. 7 Q. Yeah. 8 And you see people in -- out in 9 the parking lot you'll see people and they 10 got -- they've got license tags from Texas, 11 and they got license tags from Florida. 12 They'll have license tags at a 13 pill mill from all over the country, won't 14 they? That's one of the things you look for 15 in a pill mill, right? 16 A. You can see that at times, yes. 17 Q. Yes, sir. 18 And the other thing at a pill 19 mill that this salesperson could ascertain 20 pretty quickly is whether there's -- whether 21 there's being cash exchanged in the mill; in 22 other words, are these people going and 23 buying these pills for cash? 24 They can ascertain that, right? 25 All they got to do is walk in.</p> | <p>1 people lined up around the pill mill at eight 2 o'clock in the morning, standing there in 3 their pajamas, with children, waiting to get 4 in, that's something they ought to report to 5 somebody, shouldn't they? 6 MS. HENN: Object to form. 7 QUESTIONS BY MR. PAPANTONIO: 8 Q. Yes? 9 A. They certainly should report 10 it. 11 Q. Yes, sir. 12 And in this trial, the jury is 13 going to hear about something called notice. 14 You ever heard that term? And that is, 15 notice is when your company is told, 16 "something's wrong here, and you ought to 17 take action on it." 18 You ever heard that term? 19 Maybe it's not a term you've heard, but I'm 20 just -- I'm curious, have you ever heard the 21 term? 22 MS. HENN: Objection to form. 23 QUESTIONS BY MR. PAPANTONIO: 24 Q. You're on notice that 25 something's wrong in Kermit.</p> |
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| <p>1 MS. HENN: Objection to form. 2 QUESTIONS BY MR. PAPANTONIO: 3 Q. That salesperson in the field 4 around the pill mill could see that firsthand 5 if they wanted to, true? 6 MS. HENN: Objection to form. 7 THE WITNESS: They could 8 potentially see that, yes. 9 QUESTIONS BY MR. PAPANTONIO: 10 Q. Yes, sir. 11 And so that really is one of 12 the responsibilities for -- and I'm coming 13 back to your theory, because I agree with you 14 on your theory and I'm going to talk to you 15 more about it. 16 The theory is that the person 17 in the field actually has a responsibility to 18 know the customer, know the entire area of 19 what he's selling, he or she is selling, 20 correct? 21 A. Correct. 22 Q. And if they observed all this, 23 they actually see all this going on, they 24 ought to report it, shouldn't they? If they 25 see pill mills taking place and they see</p> | <p>1 MS. HENN: Objection to form. 2 THE WITNESS: I've heard the 3 term "notice." 4 QUESTIONS BY MR. PAPANTONIO: 5 Q. Okay. You understand what it 6 is. 7 A. I do. 8 Q. Now, just because I've looked 9 at your file and I didn't see any time when 10 you were doing any kind of field work on the 11 ground where you were -- it was your 12 responsibility to observe pill mills, to 13 observe the news that was taking place in 14 these various counties all over the country. 15 I never saw where that was your 16 responsibility. 17 Is that a fair statement, or 18 did I miss is that? 19 I just reviewed your record. 20 MS. HENN: Objection. 21 QUESTIONS BY MR. PAPANTONIO: 22 Q. You were never a salesperson? 23 A. No, that's a fair statement. 24 Q. Okay. You went right up to 25 management in regulatory, correct?</p> |

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| <p>1 A. Correct.</p> <p>2 Q. But you're familiar with what</p> <p>3 these salespeople did, true?</p> <p>4 MS. HENN: Objection to form.</p> <p>5 THE WITNESS: I'm familiar with</p> <p>6 it.</p> <p>7 QUESTIONS BY MR. PAPANTONIO:</p> <p>8 Q. Okay. So let's mark that --</p> <p>9 MS. MOORE: McKesson-Hartle</p> <p>10 163.</p> <p>11 (McKesson-Hartle Exhibit 163</p> <p>12 marked for identification.)</p> <p>13 QUESTIONS BY MR. PAPANTONIO:</p> <p>14 Q. What I'm going to do here,</p> <p>15 if -- you might want to keep this document in</p> <p>16 front of you that I have here. I'm just</p> <p>17 going to go through these -- some of these</p> <p>18 articles that are here, sir.</p> <p>19 Okay?</p> <p>20 A. Okay.</p> <p>21 Q. I want to talk to you about</p> <p>22 them. And what I want to ask you about since</p> <p>23 they're all -- these articles that I'm going</p> <p>24 to go through are actually in your own -- not</p> <p>25 yours but your company's flyer that I'm</p> | <p>1 sir, that was created by the CDC.</p> <p>2 A. Correct, I believe it was.</p> <p>3 Q. Okay. And this one I want to</p> <p>4 show you is 1062.</p> <p>5 MS. MOORE: McKesson-Hartle</p> <p>6 102.</p> <p>7 (McKesson-Hartle Exhibit 102</p> <p>8 marked for identification.)</p> <p>9 QUESTIONS BY MR. PAPANTONIO:</p> <p>10 Q. You know why I want to go over</p> <p>11 some facts here right now? What I want to do</p> <p>12 here, Mr. Hartle, is I want to review some of</p> <p>13 this literature, and I just want to see what</p> <p>14 it is you observed firsthand after you got</p> <p>15 there. Nothing you could have --</p> <p>16 What were you doing before you</p> <p>17 went for McKesson, work for McKesson?</p> <p>18 A. I worked for Target Corporation</p> <p>19 where I led -- for about 19 years led</p> <p>20 investigations on a lot of different</p> <p>21 subjects, different areas, including in</p> <p>22 health care --</p> <p>23 Q. Right.</p> <p>24 A. -- in monitoring diversion,</p> <p>25 monitoring dispensing.</p> |
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| <p>1 showing you here right now, okay, the</p> <p>2 PowerPoint.</p> <p>3 So the first thing in there is</p> <p>4 a discussion about CDC. I think it's on the</p> <p>5 previous page. But you would agree that the</p> <p>6 CDC was an important source of information</p> <p>7 for your company. And I want to be careful I</p> <p>8 say something. I want to be careful of</p> <p>9 something.</p> <p>10 Anytime I say "you," I'm not</p> <p>11 talking about you, Mr. Hartle. I'm talking</p> <p>12 about your company. So don't be offended by</p> <p>13 that. Understand I'm talking about your</p> <p>14 company.</p> <p>15 Okay?</p> <p>16 A. Okay.</p> <p>17 Q. So anytime -- so you understand</p> <p>18 that one source of information that your</p> <p>19 company used was the CDC, right?</p> <p>20 A. Correct.</p> <p>21 Q. Yes?</p> <p>22 Okay. And as a matter of fact,</p> <p>23 that death map that we just went over, that</p> <p>24 was created by the CDC, correct, where we saw</p> <p>25 the progression of death from 1999 to -- yes,</p> | <p>1 Q. You had -- exactly. You had a</p> <p>2 long history of doing that. That's why they</p> <p>3 hired you and they made you a supervisor --</p> <p>4 A. Correct.</p> <p>5 Q. -- correct?</p> <p>6 You did have a lot of</p> <p>7 experience there.</p> <p>8 A. Correct.</p> <p>9 Q. But this was kind of moving you</p> <p>10 into a new area when you went to work where</p> <p>11 it dealt with the sale of narcotics. That's</p> <p>12 the first time you'd actually dealt with the</p> <p>13 sale of narcotics, correct?</p> <p>14 A. Correct.</p> <p>15 MS. HENN: Objection to form.</p> <p>16 QUESTIONS BY MR. PAPANTONIO:</p> <p>17 Q. Okay. So --</p> <p>18 A. As a distributor.</p> <p>19 Q. Yes, sir, I gotcha.</p> <p>20 A. Yeah.</p> <p>21 Q. I gotcha.</p> <p>22 So as we look at this, I want</p> <p>23 to ask you about what you would agree with,</p> <p>24 what you knew, some of this information. I</p> <p>25 want to find out how much information you had</p> |

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| <p>1 as you were proceeding in your job.</p> <p>2 This is the CDC. It says, "CDC</p> <p>3 grand rounds prescription drug overdoses, a</p> <p>4 US epidemic."</p> <p>5 Now, what I see here is that</p> <p>6 this is January 2012. And I get that you</p> <p>7 still weren't there in 2012, correct?</p> <p>8 A. Correct.</p> <p>9 Q. All right. And it says -- if</p> <p>10 you look at this first paragraph, this says,</p> <p>11 in 20 -- in 20 -- "in 2007" -- you see where</p> <p>12 I am here? "In 2007" --</p> <p>13 A. Yes.</p> <p>14 Q. -- "approximately 27,000</p> <p>15 unintentional drug overdose deaths occurred</p> <p>16 in the United States, one death every</p> <p>17 19 minutes."</p> <p>18 Now, you know, sir, that</p> <p>19 actually progressed, that number of death</p> <p>20 actually progressed at -- went higher after</p> <p>21 2007. You know that, or do you?</p> <p>22 A. I do.</p> <p>23 Q. Okay. It says, "Prescription</p> <p>24 drug abuse is the fastest growing drug</p> <p>25 problem in the United States."</p> | <p>1 Right?</p> <p>2 And you're familiar with that.</p> <p>3 You understood as we just looked at the map,</p> <p>4 sir, the progression is pretty apparent. I</p> <p>5 mean, this is the CDC talking about starting</p> <p>6 in 2007, but the progression is pretty</p> <p>7 apparent, isn't it? It was apparent to you</p> <p>8 when you got there?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 QUESTIONS BY MR. PAPANTONIO:</p> <p>11 Q. You could do a look-back and</p> <p>12 see the increase in narcotic use?</p> <p>13 A. Agree.</p> <p>14 Q. All right. Then if you look at</p> <p>15 the bottom it says, "Drug distribution</p> <p>16 through the pharmaceutical supply chain was</p> <p>17 the equivalent of 96 milligrams of morphine</p> <p>18 per person in 1997 and approximately</p> <p>19 700 milligrams per person in 2007, an</p> <p>20 increase of 600 percent. That 700 milligrams</p> <p>21 of morphine per person is enough for everyone</p> <p>22 in the United States to take a typical</p> <p>23 5-milligram dose of Vicodin, hydrocodone,</p> <p>24 every four hours for three weeks."</p> <p>25 Had you ever seen numbers like</p> |
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| <p>1 You, I think, have already said</p> <p>2 that you agreed with that, and I'm not --</p> <p>3 well, maybe I misunderstood -- maybe I did.</p> <p>4 Do you agree with that? I want</p> <p>5 to be fair and make sure I got this right.</p> <p>6 You do agree that at this point</p> <p>7 this was the fastest growing health problem</p> <p>8 in the United States?</p> <p>9 A. I agree with the literature.</p> <p>10 I've read these things, yeah.</p> <p>11 Q. Okay. And again, this is not</p> <p>12 your responsibility at this place. At this</p> <p>13 time you're still at Target, correct?</p> <p>14 A. Correct.</p> <p>15 Q. You don't have anything to do</p> <p>16 with all this.</p> <p>17 It says, "The increase of</p> <p>18 unintentional drug overdose death rates in</p> <p>19 years" -- and it gives us -- it gives us a</p> <p>20 figure we can go to, but it -- "has been</p> <p>21 driven by increased use of a class of</p> <p>22 prescription drugs called opioid analgesics.</p> <p>23 Since 2003, more overdose deaths have</p> <p>24 involved opioid analgesics than heroin and</p> <p>25 cocaine combined."</p> | <p>1 that where the CDC went as far and said,</p> <p>2 "Look, not only can we show you the exact</p> <p>3 progression of all this, but we can actually</p> <p>4 tell you how it's actually -- what the impact</p> <p>5 is person to person."</p> <p>6 If you look at this, this is</p> <p>7 saying that 700 milligrams of morphine per</p> <p>8 person is enough for everyone in the United</p> <p>9 States to take a typical 5-milligram dose of</p> <p>10 Vicodin.</p> <p>11 Do you see that?</p> <p>12 A. I've seen things put in terms</p> <p>13 like this before.</p> <p>14 Q. All right. I want to be real</p> <p>15 clear about something. You didn't make the</p> <p>16 decision about things like marketing and</p> <p>17 sales for your company; is that a safe</p> <p>18 statement?</p> <p>19 A. It's a very safe statement.</p> <p>20 Q. Nobody called Mr. Hartle and</p> <p>21 said, "Hey, what do you think about us doing</p> <p>22 a marketing program to increase sales?"</p> <p>23 That's a true statement, isn't it?</p> <p>24 A. True.</p> <p>25 Q. I didn't see that in your</p> |

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| <p>1 record. If it's there, please tell me if it 2 is.</p> <p>3 A. It's a true statement.</p> <p>4 Q. Yeah, but you know that went 5 on, that there was a marketing effort by 6 McKesson to increase sales by marketing. You 7 know that, true?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: I know we have a 10 marketing department, sure.</p> <p>11 QUESTIONS BY MR. PAPANTONIO:</p> <p>12 Q. Yes, sir.</p> <p>13 And they marketed 14 pharmaceutical -- they marketed narcotics, 15 simply put. Along with other 16 pharmaceuticals, they marketed narcotics.</p> <p>17 MS. HENN: Objection to form.</p> <p>18 QUESTIONS BY MR. PAPANTONIO:</p> <p>19 Q. Yes?</p> <p>20 A. Pharmaceuticals and narcotics, 21 sure.</p> <p>22 Q. Okay. So the next -- I'm going 23 to continue with some of these articles. I 24 just want to -- I'm not going to be able to 25 go through the whole thing, but if there's</p> | <p>1 I'm going to be talking about 2 that -- that PowerPoint, that McKesson 3 PowerPoint, and in there it is -- there's 4 footnotes, there's places where they talk 5 about news articles. Okay?</p> <p>6 I'm going to be talking about 7 those, and so as I go forward, that's what 8 I'm trying to tell you.</p> <p>9 A. Okay.</p> <p>10 Q. This one is called, "Let's Come 11 Together to Solve the Opioid Crisis."</p> <p>12 MS. HENN: Counsel, I'm not 13 sure we have the right document.</p> <p>14 THE WITNESS: Yeah. This is a 15 Wikipedia page.</p> <p>16 MR. PAPANTONIO: Oh, wait, 17 wait. I'm sorry. 1561. Give him -- 18 hold that because I'm going to get to 19 that in just a minute. 1561.</p> <p>20 MS. MOORE: McKesson-Hartle 21 145. 22 (McKesson-Hartle Exhibit 145 23 marked for identification.)</p> <p>24 MR. PAPANTONIO: Could we blow 25 that up? He's not going to be able to</p> |
| <p>1 something in an article that you say, "Look, 2 I want to talk about this," feel free to do 3 it.</p> <p>4 This next one -- this next one 5 is document 1620.</p> <p>6 MS. MOORE: That would be 7 McKesson-Hartle 148.</p> <p>8 (McKesson-Hartle Exhibit 148 9 marked for identification.)</p> <p>10 QUESTIONS BY MR. PAPANTONIO:</p> <p>11 Q. You want to take a look at 12 that, Mr. Hartle, and see what you think?</p> <p>13 This is -- also, everything 14 that I'm doing right now, up to a certain 15 point, and I'll tell you when that point is, 16 this is simply coming from that document that 17 you have in front of you that is McKesson 18 talking about newspaper articles that were 19 important, right?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 I'm sorry, I don't understand what you 22 just said.</p> <p>23 QUESTIONS BY MR. PAPANTONIO:</p> <p>24 Q. Okay. Well, let me 25 restatement -- let me restate it.</p> | <p>1 see that. I can't even read the 2 thing. If you could read that. I 3 can't even read it on the paper. 4 Let's see if we can blow it up on the 5 screen.</p> <p>6 QUESTIONS BY MR. PAPANTONIO:</p> <p>7 Q. Did you know that McKesson did 8 an -- they did an ad in the Wall Street 9 Journal? Do you remember this ad they did?</p> <p>10 This is after they had been 11 punished by the DEA in 2008, after they had 12 been punished by the Department of Justice in 13 2015, after they had been fined \$150 million, 14 after they had been fined \$13 million. I 15 could go on. But then they put this ad in 16 the newspaper.</p> <p>17 Did you see this ad in the 18 newspaper?</p> <p>19 A. I don't recall.</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: Excuse me.</p> <p>22 QUESTIONS BY MR. PAPANTONIO:</p> <p>23 Q. "Let's Come Together to Solve 24 the Opioid Crisis."</p> <p>25 You see that?</p> |

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| <p>1 A. I see that.</p> <p>2 Q. You understand if we look at</p> <p>3 that map that we -- that death map that takes</p> <p>4 us all through 2016, this is a little bit</p> <p>5 late for solving the opioid crisis. If they</p> <p>6 had an ad in the newspaper, Wall Street</p> <p>7 Journal, like this that says -- let's read</p> <p>8 it. Let's read what it says, because these</p> <p>9 are really nice words, and I want to see</p> <p>10 which...</p> <p>11 It says, "Our nation is in the</p> <p>12 midst of an enormous epidemic."</p> <p>13 Now, we can agree, the epidemic</p> <p>14 had started long before 2017, right? Right?</p> <p>15 A. Yeah, based on CDC information.</p> <p>16 Q. But right after they get hit by</p> <p>17 the Department of Justice for \$150 million</p> <p>18 where they have to admit they were -- they</p> <p>19 were unlawfully failing to report suspicious</p> <p>20 orders, those types of things, then this ad</p> <p>21 comes out and it says, "Our nation is in the</p> <p>22 midst of an enormous epidemic," right?</p> <p>23 A. There's what it says.</p> <p>24 MS. HENN: Objection to form.</p> <p>25</p> | <p>1 establishing that you didn't follow -- not</p> <p>2 you, but your company didn't follow all that</p> <p>3 recommendation, and then they got hit again</p> <p>4 in 2015 for \$150 million because they didn't</p> <p>5 do what they were told to do in 2008.</p> <p>6 Do you remember that discussion</p> <p>7 earlier today with my partner?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: I do remember the</p> <p>10 discussion.</p> <p>11 QUESTIONS BY MR. PAPANTONIO:</p> <p>12 Q. Okay. So it says, "The only</p> <p>13 way we're going to solve it is by coming</p> <p>14 together."</p> <p>15 What is -- what do you mean,</p> <p>16 "coming together"? What -- what was -- how</p> <p>17 were you going to come together to solve</p> <p>18 that -- the problem that we saw on that death</p> <p>19 map that extended from New York to</p> <p>20 California? What was -- what is coming</p> <p>21 together?</p> <p>22 Would you underline "coming</p> <p>23 together"?</p> <p>24 How do you want to come</p> <p>25 together to solve that problem? What is --</p> |
| <p style="text-align: center;">Page 415</p> <p>1 QUESTIONS BY MR. PAPANTONIO:</p> <p>2 Q. It says, "The only way we can</p> <p>3 solve it is by coming together to create a</p> <p>4 practical solution."</p> <p>5 Isn't the practical solution</p> <p>6 what the DEA was telling you to do in 2008,</p> <p>7 before you were there? You went back and</p> <p>8 looked at the paper. Wasn't it pretty clear</p> <p>9 the DEA was trying to tell you there is a</p> <p>10 solution, but you got to follow the law.</p> <p>11 You'd agree with that, wouldn't</p> <p>12 you, the 2008 where they had to pay</p> <p>13 \$13 million?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 QUESTIONS BY MR. PAPANTONIO:</p> <p>16 Q. The DEA was trying to tell you:</p> <p>17 There's a solution; here's what it is.</p> <p>18 Do you remember that?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: They were</p> <p>21 reiterating the regulations and</p> <p>22 expectations.</p> <p>23 QUESTIONS BY MR. PAPANTONIO:</p> <p>24 Q. And then even after 2008, I</p> <p>25 think my partner spent most of the morning</p> | <p style="text-align: center;">Page 417</p> <p>1 did they -- did you have a come-together</p> <p>2 meeting or something where they said, "We got</p> <p>3 a solution; now we're going to come</p> <p>4 together"?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 THE WITNESS: No, I didn't</p> <p>7 write this, so I don't know exactly</p> <p>8 what the meaning was.</p> <p>9 QUESTIONS BY MR. PAPANTONIO:</p> <p>10 Q. I know you didn't write it.</p> <p>11 A. Yeah.</p> <p>12 Q. I'm not -- again, this isn't a</p> <p>13 blame game. I'm just wondering.</p> <p>14 Do you remember a meeting where</p> <p>15 we're going to come together and here is our</p> <p>16 practical solutions to all these people dying</p> <p>17 in the United States from our narcotics?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 QUESTIONS BY MR. PAPANTONIO:</p> <p>20 Q. I'm sorry.</p> <p>21 A. Could you ask the question</p> <p>22 again?</p> <p>23 Q. Yes, sir.</p> <p>24 Do you remember there being a</p> <p>25 come-together program like -- was a</p> |

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| <p>1 come-together program like the ICARE program 2 that you described earlier? 3 A. I don't recall -- 4 MS. HENN: Objection to form. 5 THE WITNESS: -- a 6 come-together program.</p> <p>7 QUESTIONS BY MR. PAPANTONIO:</p> <p>8 Q. Okay. Do you know what 9 practical solutions they were talking about 10 there?</p> <p>11 A. I don't -- 12 MS. HENN: Objection to form. 13 Go ahead.</p> <p>14 THE WITNESS: I don't know 15 specifically.</p> <p>16 QUESTIONS BY MR. PAPANTONIO:</p> <p>17 Q. All right. Do you know -- I'm 18 just -- let's read on. It says, "At McKesson 19 we're working to do our part by continuously 20 enhancing our programs designed to detect and 21 prevent opioid diversion."</p> <p>22 Isn't that what you told the 23 DEA you were going to do in 2008? 24 Underline that. 25 In 2008, the president of your</p> | <p>1 Q. Did you meet Mr. Eric Holder? 2 You been up to his office? 3 MS. HENN: Objection to form. 4 THE WITNESS: I have not.</p> <p>5 QUESTIONS BY MR. PAPANTONIO:</p> <p>6 Q. You haven't met him, right? 7 A. No. 8 Q. But you know that Eric Holder 9 was the Attorney General during the time that 10 your company was negotiating to get out of 11 the problems that you had in 2015. Mr. Eric 12 Holder with Covington Burling, in the very 13 building we're sitting right now, was the 14 Attorney General, right?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 QUESTIONS BY MR. PAPANTONIO:</p> <p>17 Q. You know that? 18 A. I know that. 19 Q. And you know that his partner 20 who negotiated all these deals was Mr. Geoff 21 Hobart, and he's also right here in this 22 building, right? The building we're sitting 23 in right here in Washington, DC.</p> <p>24 MS. HENN: Objection to form.</p> |
| <p>1 company -- you know Mr. Hambergren? Have you 2 ever met Mr. Hambergren? 3 A. Not in person. I've been to 4 conferences with him. I know who he is. He 5 is our CEO.</p> <p>6 Q. You know what else I'm 7 interested in? You ever met Mr. Hobart? We 8 saw Mr. Hobart's name a lot. He's an 9 attorney, right? You've met him?</p> <p>10 A. I have.</p> <p>11 Q. As a matter of fact, we're here 12 in Covington & Burling here in Washington, 13 DC, and this is where Mr. Hobart's office is, 14 right? True?</p> <p>15 A. Correct.</p> <p>16 Q. Did you meet him here in this 17 office?</p> <p>18 A. I've met Geoff.</p> <p>19 Q. You've met Geoff. That's his 20 name, Geoff Hobart?</p> <p>21 A. Correct.</p> <p>22 Q. Did you know also in this -- 23 also in this building that we're sitting 24 right here -- you know who Eric Holder is?</p> <p>25 A. I do.</p> | <p>1 Page 419</p> <p>1 QUESTIONS BY MR. PAPANTONIO: 2 Q. Yes? 3 A. Yes. 4 Q. You know that? 5 A. Yes. 6 Q. And you know about the article 7 where the DEA was complaining that they had 8 made recommendations about Aurora, where they 9 suggested that Aurora, because of all the bad 10 things that were done in Aurora, that there 11 should be -- there should be fines in excess 12 of a billion dollars. Do you know that? 13 Do you remember that article 14 that appeared in the Wall Street Journal?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 QUESTIONS BY MR. PAPANTONIO:</p> <p>17 Q. I'll get to it in a minute, but 18 I'm just -- 19 A. I think I recall, yeah. 20 Q. You do recall that. 21 And you recall that those same 22 DEA agents -- the same DEA -- well, let me 23 show it to you. You've seen it, I know. 24 This is -- 25 MS. MOORE: McKesson-Hartle 84.</p> |

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| <p>1 It's P1.108.</p> <p>2 (McKesson-Hartle Exhibit 84</p> <p>3 marked for identification.)</p> <p>4 QUESTIONS BY MR. PAPANTONIO:</p> <p>5 Q. And you've seen this, right?</p> <p>6 It's attached -- that's actually attached to</p> <p>7 one of these documents, but I want to make</p> <p>8 sure you've seen this before.</p> <p>9 A. I have.</p> <p>10 Q. All right. Well, let's read it</p> <p>11 together since -- let's go from this -- this</p> <p>12 ad that appeared in the Wall Street Journal</p> <p>13 about how you're going to come together to</p> <p>14 solve the crisis in the United States.</p> <p>15 This headline on this article</p> <p>16 is, "We feel like our system was highjacked.</p> <p>17 DEA agents say a huge opioid case ended in a</p> <p>18 whimper."</p> <p>19 Now you were actually</p> <p>20 involved -- at this point, sir, you were</p> <p>21 involved in the process of simply trying to</p> <p>22 do your job and provide information to the</p> <p>23 people so they could work through this</p> <p>24 problem that existed in 2015, right?</p> <p>25 MS. HENN: Objection to form.</p> | <p>1 been raised by the DEA where they had -- they</p> <p>2 had actually -- they had actually made a</p> <p>3 recommendation that there be criminal charges</p> <p>4 brought against McKesson, true?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 QUESTIONS BY MR. PAPANTONIO:</p> <p>7 Q. Take a minute and look at this.</p> <p>8 I want you to be familiar with it. I don't</p> <p>9 want you guessing about this because these</p> <p>10 questions I'm about to ask you are important.</p> <p>11 Are you familiar with that</p> <p>12 article, sir?</p> <p>13 A. I am.</p> <p>14 Q. I'm kind of short on time so I</p> <p>15 want to move through this.</p> <p>16 Here's what I want to ask: You</p> <p>17 knew that the DEA was recommending a fine in</p> <p>18 excess of a billion dollars because of the</p> <p>19 conduct that took place in Aurora. You knew</p> <p>20 that, correct?</p> <p>21 A. Correct.</p> <p>22 MS. HENN: Objection to form.</p> <p>23 QUESTIONS BY MR. PAPANTONIO:</p> <p>24 Q. In your job you knew that.</p> <p>25 And in your job you also knew</p> |
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| <p>1 QUESTIONS BY MR. PAPANTONIO:</p> <p>2 Q. You were providing them</p> <p>3 information. We got to work through the</p> <p>4 problem of -- we got to work through this</p> <p>5 problem. We've been accused of certain</p> <p>6 things like not reporting suspicious orders</p> <p>7 in Aurora, right?</p> <p>8 A. Could you rephrase that?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 QUESTIONS BY MR. PAPANTONIO:</p> <p>11 Q. Yes, sir.</p> <p>12 A. I don't understand who is</p> <p>13 "they."</p> <p>14 Q. I want to make sure that I'm</p> <p>15 clear.</p> <p>16 You did not participate in</p> <p>17 anything that occurred dealing with the</p> <p>18 \$150 million fine; yes or no?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: That was before I</p> <p>21 joined McKesson.</p> <p>22 QUESTIONS BY MR. PAPANTONIO:</p> <p>23 Q. That's right.</p> <p>24 But nevertheless, you were</p> <p>25 familiar with the fact that the question had</p> | <p>1 that the -- at some point the DEA had said,</p> <p>2 "this conduct is so bad, we need to have a</p> <p>3 criminal -- there needs to be criminal</p> <p>4 prosecution." You knew that, right?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 THE WITNESS: I knew that was</p> <p>7 suggested.</p> <p>8 QUESTIONS BY MR. PAPANTONIO:</p> <p>9 Q. Yes, sir.</p> <p>10 And you know that Mr. Hobart,</p> <p>11 Geoff Hobart, handled that case, correct?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 THE WITNESS: Correct.</p> <p>14 QUESTIONS BY MR. PAPANTONIO:</p> <p>15 Q. And Mr. Hobart is a partner</p> <p>16 with the Attorney General Eric Holder, a law</p> <p>17 partner at Covington & Burling with Eric</p> <p>18 Holder. You know that, correct?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: I do.</p> <p>21 QUESTIONS BY MR. PAPANTONIO:</p> <p>22 Q. And as a matter of fact, we're</p> <p>23 sitting in an office as we take this</p> <p>24 deposition, and in this office is Mr. Eric</p> <p>25 Holder's office, right? You know that?</p> |

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| <p>1 MS. HENN: Objection to form. 2 THE WITNESS: I know it's in 3 this complex, sure. 4 QUESTIONS BY MR. PAPANTONIO: 5 Q. In this complex. 6 And you know Mr. Hobart's 7 office is in this complex, correct? 8 MS. HENN: Objection to form. 9 THE WITNESS: Correct. 10 QUESTIONS BY MR. PAPANTONIO: 11 Q. And so Mr. Hobart was able to 12 get -- to move from the DEA talking about a 13 billion dollar -- in excess of a billion 14 dollar fine and potential criminal -- 15 criminal prosecution that -- that all 16 suddenly moved to \$150 million fine for this 17 conduct that we're talking about in Aurora, 18 right? 19 MS. HENN: Objection to form. 20 QUESTIONS BY MR. PAPANTONIO: 21 Q. You know about that, don't you? 22 A. I know that's what it ended up, 23 yes. 24 Q. Yeah. 25 And what was your involvement</p> | <p>1 A. I understand. 2 Q. You don't have to make anything 3 up or try to remember. 4 Okay. Let me keep working 5 here. Here's another news article. It's 6 1526, Document 1526. 7 MR. PAPANTONIO: Carol, do you 8 have a -- 9 MS. MOORE: Yes, sir. 1556. 10 MR. PAPANTONIO: Oh, I'm sorry, 11 1556. Yeah. I got it. I got it. I 12 got it. 13 MS. MOORE: McKesson-Hartle 14 141, P1.1556. 15 (McKesson-Hartle Exhibit 141 16 marked for identification.) 17 QUESTIONS BY MR. PAPANTONIO: 18 Q. Mr. Hartle, this is -- take a 19 minute and look at this. Just breeze through 20 it if you can. I got a couple of just small 21 questions for you. 22 But it's got your name at the 23 top of it; do you see that? Nate Hartle. 24 Do you see that, Mr. -- 25 A. I do.</p> |
| <p style="text-align: center;">Page 427</p> <p>1 in that? Did you provide information to 2 Mr. Hobart? Did you -- not Mr. Hobart. 3 Did you provide information to 4 McKesson to try to get -- work through this 5 conflict with the DEA? 6 MS. HENN: And just to be 7 cautious, I'll remind you not to 8 discuss any conversations you had with 9 counsel. But his question is about 10 providing information to McKesson. 11 QUESTIONS BY MR. PAPANTONIO: 12 Q. Yeah. 13 Did you provide McKess -- 14 McKesson -- did you provide McKesson with 15 information so they could work through this 16 conflict that they were having with the DEA? 17 MS. HENN: Objection to form. 18 THE WITNESS: I'm not sure if 19 I -- yeah, if I provided -- 20 QUESTIONS BY MR. PAPANTONIO: 21 Q. Do you remember -- if you don't 22 remember -- 23 A. I don't remember. 24 Q. Okay. That's fine. It's okay. 25 If you don't remember, you don't have to --</p> | <p style="text-align: center;">Page 429</p> <p>1 Q. Okay. And you know who Karen 2 Harper is? You've dealt with Karen Harper? 3 A. I do. 4 Q. Okay. Now, did you know that 5 there was a representation that was made -- a 6 representation that was made to Congress that 7 your company did not have any way to find out 8 what other drug companies were selling to the 9 various pharmacies? Did you know that? 10 MS. HENN: Objection to form. 11 THE WITNESS: Could you say 12 that again, please? Did I know -- 13 QUESTIONS BY MR. PAPANTONIO: 14 Q. Yes, sir. 15 Did you know that there was a 16 representation made -- it wasn't from your 17 company, but there was a representation made 18 to Congress during the Congressional hearings 19 that there -- the reason they didn't know 20 exactly how many drugs were being sold -- 21 sold in a pharmacy is they didn't know what 22 the other companies were selling to the 23 pharmacy. 24 You ever heard that? 25 MS. HENN: Objection to form.</p> |

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| <p>1 THE WITNESS: I've heard 2 statements like that.</p> <p>3 QUESTIONS BY MR. PAPANTONIO:</p> <p>4 Q. But that wouldn't be true. You 5 had the ability to find out all the drugs 6 that were being sold in a pharmacy. We can 7 agree with that, can't we?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 QUESTIONS BY MR. PAPANTONIO:</p> <p>10 Q. You could have done an audit 11 anytime?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 THE WITNESS: That was part of 14 our process. We would get --</p> <p>15 QUESTIONS BY MR. PAPANTONIO:</p> <p>16 Q. Yes, sir.</p> <p>17 A. -- dispensing data and be able 18 to see --</p> <p>19 Q. That's what I'm trying to get 20 at. I just want to be clear about something.</p> <p>21 MS. HENN: Counsel, let's make 22 sure we don't talk on top of each 23 other.</p> <p>24 QUESTIONS BY MR. PAPANTONIO:</p> <p>25 Q. Yeah. So I just want to be</p> | <p>1 before?</p> <p>2 Q. I used the word "glut," but you 3 don't have to use it. If there were -- you 4 can -- let me rephrase it.</p> <p>5 You had the right to do an 6 audit and find exactly how many drugs were 7 being -- how many narcotics were being sold 8 to any given pharmacy at any given time by 9 any narcotic company; yes or no?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 THE WITNESS: I need you to 12 please restate that again --</p> <p>13 QUESTIONS BY MR. PAPANTONIO:</p> <p>14 Q. Yes, sir.</p> <p>15 A. -- so I can be very clear.</p> <p>16 Q. Yeah, I want to be clear.</p> <p>17 MR. PAPANTONIO: Would you read 18 that back? Read that back if you 19 don't mind.</p> <p>20 She'll read that back to you.</p> <p>21 (Court Reporter read back 22 question.)</p> <p>23 MS. HENN: Objection to form.</p> <p>24 QUESTIONS BY MR. PAPANTONIO:</p> <p>25 Q. That's a fair question, isn't</p> |
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| <p>1 clear. I think you're -- you're already 2 answering the question. I want to get to a 3 little more direct.</p> <p>4 A. Okay.</p> <p>5 Q. If you wanted to know whether 6 Cardinal was selling drugs to a pharmacy 7 along with Amerisource, you had the right to 8 audit and find out. You knew exactly how 9 many drugs were being sold in any given 10 pharmacy that you were doing business with, 11 at least when you came along?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 THE WITNESS: Correct. We 14 would ask for dispensing to validate.</p> <p>15 QUESTIONS BY MR. PAPANTONIO:</p> <p>16 Q. Right.</p> <p>17 And dispensing to validate is a 18 way that you can tell if there's a glut of 19 narcotics being sold in any one pharmacy, 20 true?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 QUESTIONS BY MR. PAPANTONIO:</p> <p>23 Q. You have access to that 24 information?</p> <p>25 A. What was the phrase you used</p> | <p>1 it? I mean, you know the answer to that.</p> <p>2 You can do an audit, right?</p> <p>3 A. We could request dispensing 4 data to understand what a pharmacy is 5 dispensing.</p> <p>6 Q. That's all I'm trying to get 7 to. I just want to make sure I didn't 8 misunderstand it.</p> <p>9 A. Right.</p> <p>10 Q. And it wasn't you that 11 testified in front of Congress; I'm not 12 suggesting that you did. But if that was 13 represented in front of Congress, that just 14 wouldn't -- if it was represented in front of 15 Congress that it would be absolute -- that 16 McKesson had no way of finding out what other 17 drug companies were selling to any given 18 pharmacy, if that was represented, that 19 wouldn't be true, correct?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: Can you please 22 say that again?</p> <p>23 QUESTIONS BY MR. PAPANTONIO:</p> <p>24 Q. Yes, sir.</p> <p>25 A. Yeah.</p> |

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| <p>1 Q. If it was represented to 2 Congress that McKesson had no way of knowing 3 what other drug companies were selling to any 4 given pharmacy, narcotics, that wouldn't be 5 true, correct?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 THE WITNESS: I'm not saying 8 that. We have -- can gain dispensing 9 data --</p> <p>10 QUESTIONS BY MR. PAPANTONIO:</p> <p>11 Q. Yeah.</p> <p>12 A. -- which doesn't tell us who it 13 came from as a distributor.</p> <p>14 Q. Right.</p> <p>15 A. It tells us what they're 16 dispensing.</p> <p>17 Q. Exactly. That's all I care 18 about. That's what I want the jury to 19 understand.</p> <p>20 Dispensing data gives you the 21 information on any given day, any given time, 22 how much narcotics is being sold to a 23 pharmacy.</p> <p>24 MS. HENN: Objection to form.</p> <p>25</p> | <p>1 We've been going an hour and ten 2 minutes.</p> <p>3 MR. PAPANTONIO: Yeah, okay. 4 You want to take a break right now? 5 We'll come back at it.</p> <p>6 How much -- what have I got, 7 another 45 minutes, something like 8 that?</p> <p>9 MS. HENN: I think more like an 10 hour.</p> <p>11 VIDEOGRAPHER: Six hours 10 12 minutes on the record.</p> <p>13 MR. PAPANTONIO: Okay. And why 14 don't you take a break.</p> <p>15 THE WITNESS: That's fine.</p> <p>16 VIDEOGRAPHER: The time is 17 4:39 p.m., and we're going off the 18 record.</p> <p>19 (Off the record at 4:39 p.m.)</p> <p>20 VIDEOGRAPHER: The time is 21 4:50 p.m., and we're back on the 22 record.</p> <p>23 QUESTIONS BY MR. PAPANTONIO:</p> <p>24 Q. Sir, I want to show you -- I 25 want to talk to you about -- you know I used</p> |
| <p>1 QUESTIONS BY MR. PAPANTONIO:</p> <p>2 Q. That's true, isn't it?</p> <p>3 A. How much is being dispensed by 4 the pharmacy.</p> <p>5 Q. Yes. Yes.</p> <p>6 A. Not sold to the pharmacy, 7 dispensed by the pharmacy.</p> <p>8 Q. Right.</p> <p>9 And you can extrapolate from 10 that how many drugs -- how many narcotics 11 they have in their pharmacy, right?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 THE WITNESS: You can -- you 14 can understand what they're 15 dispensing.</p> <p>16 QUESTIONS BY MR. PAPANTONIO:</p> <p>17 Q. Right.</p> <p>18 A. Which drugs, noncontrols, all 19 drugs.</p> <p>20 Q. Correct. If you look at this 21 document that's in front of you, it's 1526.</p> <p>22 MR. PAPANTONIO: What did you 23 say that number was?</p> <p>24 MS. HENN: And, Counsel, we 25 need to take a break relatively soon.</p> | <p>1 that word "glut"?</p> <p>2 A. You did.</p> <p>3 MR. PAPANTONIO: Okay. Carol, 4 can I have a piece of white -- just a 5 white piece of paper? Don't worry 6 about that other. Give me a piece of 7 white paper and then we'll move on.</p> <p>8 QUESTIONS BY MR. PAPANTONIO:</p> <p>9 Q. I want to show you this 1556.</p> <p>10 It'll be up on the screen, and I want to ask 11 you about this.</p> <p>12 Standby.</p> <p>13 MR. PAPANTONIO: Oh, here it 14 is. Let's -- hold on just a second. 15 Let's back up to the beginning of it. 16 It shouldn't be that big.</p> <p>17 Why don't we start it over.</p> <p>18 Okay.</p> <p>19 (Video played.)</p> <p>20 QUESTIONS BY MR. PAPANTONIO:</p> <p>21 Q. Here's what I want to ask you 22 about. You don't have -- there is no oxy 23 express if the level of narcotics are 24 properly controlled. If you don't have a 25 glut, an excess, of pharmaceuticals, things</p> |
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| <p>1 like -- things like the oxy express can't 2 even exist because there aren't enough pills, 3 right? You'd agree with that? 4 MS. HENN: Objection to form. 5 THE WITNESS: If there's less 6 pills -- 7 QUESTIONS BY MR. PAPANTONIO: 8 Q. Right. 9 A. -- sure. 10 Q. Well, here's what I'm getting 11 at. Here's really what I'm trying to get to, 12 okay? 13 Let's go back to this. Let's 14 go back to Kermit. If you got a town like 15 Kermit -- and in a minute -- you don't have 16 to take my word for it; I'll show you the 17 actual numbers -- that Kermit had a 18 population of about 400 -- I think it's 406 19 people, okay? -- during the time that the -- 20 during the time that Congress actually wrote 21 a letter to your president, Mr. Hambergren. 22 Have you ever reviewed that 23 letter that Congress wrote to Mr. Hambergren? 24 MS. HENN: Objection to form. 25 THE WITNESS: Dated when?</p> | <p>1 QUESTIONS BY MR. PAPANTONIO: 2 Q. Okay. We'll talk about 3 specifics in a minute. I don't expect you to 4 remember numbers. These are big numbers. 5 So let's just say if I've got 6 millions of pills being shipped into a town 7 that there's only 406 people, part of those 8 are children, right? So it's not -- it's not 9 406 adults, 406 people in the town -- in this 10 town of Kermit. And you've got millions of 11 pills being shipped in there, right? 12 Well, we know that 406 people 13 can't use millions of pills. You know 14 that -- I mean, that's just logical, isn't 15 it? 16 MS. HENN: Objection to form. 17 THE WITNESS: I understand. 18 QUESTIONS BY MR. PAPANTONIO: 19 Q. Yeah. 20 I don't want to put words in 21 your mouth, but we're talking logic now. If 22 you got a population of 406 people, they 23 can't -- they can't absorb -- I'm going to 24 write those words so we're going to come back 25 to that. They can't absorb millions of</p> |
| <p>1 QUESTIONS BY MR. PAPANTONIO: 2 Q. I'll have to get to it in a 3 minute. But I'm going to rely on the facts 4 in that letter, and if I misstate it, it'll 5 be in that letter. 6 But Kermit was in West 7 Virginia, correct? You know that? 8 A. Correct. 9 Q. And it had a population of 10 about 406 people; you know that. It's a very 11 small population. 12 MS. HENN: Objection to form. 13 THE WITNESS: Small population. 14 QUESTIONS BY MR. PAPANTONIO: 15 Q. Okay. But nevertheless, it was 16 getting millions of pills shipped into this 17 little area of a population of 406 people; 18 did you know that? 19 Do you know how many million of 20 pills were shipped in, that McKesson actually 21 shipped in? 22 MS. HENN: Objection to form. 23 THE WITNESS: I know there were 24 many. 25</p> | <p>1 pills, right? 406 people can't absorb 2 millions of pills year in, year out. You'd 3 agree with that, narcotics? 4 MS. HENN: Objection to form. 5 THE WITNESS: Right. 6 QUESTIONS BY MR. PAPANTONIO: 7 Q. Okay. So because of that, 8 because they can't -- the four -- these 9 families, you know, you got momma and daddy 10 and little children and whatever like you see 11 on this film up here. They can't absorb 12 millions of pills. 13 And there's only a population 14 of 406 people, so where do the pills go? 15 Where do the other millions of pills go? 16 MS. HENN: Objection to form. 17 QUESTIONS BY MR. PAPANTONIO: 18 Q. I mean, isn't this kind of 19 logic? 20 A. I think there's some context 21 that's missing, you know, in terms of the 22 dispensing, the population surrounding the 23 number of pharmacies, the number of people 24 that go to that location -- 25 Q. Right.</p> |

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| <p>1 A. -- how many years was the 2 million pills. I mean, there's additional 3 context, I -- I understand.</p> <p>4 Q. Yeah, but you would agree 5 that if there's millions of pills that are 6 supposed to be shipped just to the town of 7 Kermit, then 406 people cannot absorb 8 millions of narcotics. You would agree with 9 that. I mean, that's just logic.</p> <p>10 MS. HENN: Objection to form.</p> <p>11 QUESTIONS BY MR. PAPANTONIO:</p> <p>12 Q. True?</p> <p>13 A. 400 people can't consume that 14 many pills.</p> <p>15 Q. Yeah. So let me show you this 16 film again because I'm going to go from this 17 film, and then we're going to talk about 18 specifics about what the actual Congressional 19 letter said about places like Kermit and...</p> <p>20 There's a family. There's 21 pills coming in from Judy's Pharmacy.</p> <p>22 You remember us talking about 23 Judy's Pharmacy earlier on? I just called it 24 Judy's Pharmacy.</p> <p>25 A. I do remember that.</p> | <p>1 that's the term, isn't it, red flag.</p> <p>2 And she can see that if there's 3 cars coming through the town, she can see 4 that they're coming from other states, maybe 5 Florida, maybe Mississippi, maybe Georgia. 6 Wherever it is, she can see the -- she can 7 actually see the license tags of the people 8 that are driving through this little area to 9 get pills, right?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 QUESTIONS BY MR. PAPANTONIO:</p> <p>12 Q. She sees that firsthand, 13 correct?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 THE WITNESS: Again, you could 16 see some of those things occasionally.</p> <p>17 QUESTIONS BY MR. PAPANTONIO:</p> <p>18 Q. All right. So two things I 19 want to mark. I want to mark -- I'm going to 20 give you a hard copy of what we just put up 21 there, and let's get it marked.</p> <p>22 MS. MOORE: This is 23 McKesson-Hartle 165.</p> <p>24 MR. PAPANTONIO: This is the 25 drawing that I did.</p> |
| <p>1 Q. Okay. So Judy's Pharmacy is 2 selling more -- they're getting in all these 3 pills, but the population -- if the 4 population can't cover the pills, then the 5 excess has to go somewhere, correct?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 QUESTIONS BY MR. PAPANTONIO:</p> <p>8 Q. I mean, you'd agree with that, 9 wouldn't you?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. And one place it goes in 12 diversion is it goes to pill mills, right?</p> <p>13 Goes to pill mills; that's one place?</p> <p>14 A. It can.</p> <p>15 Q. And if you got a salesperson 16 out here working that area, she ought to be 17 able to see the pill mills firsthand. She 18 can actually see what -- she can see the pill 19 mills, people standing outside the pill mills 20 day in and day out to get their pills, right?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 THE WITNESS: Some of those red 23 flags can be visible, yes.</p> <p>24 QUESTIONS BY MR. PAPANTONIO:</p> <p>25 Q. That would be called -- yeah,</p> | <p>1 MS. MOORE: The video is --</p> <p>2 MR. PAPANTONIO: And then we'll 3 get the video put in. I might have -- 4 anyway, let me keep moving.</p> <p>5 MS. MOORE: 1526.</p> <p>6 McKesson-Hartle 140.</p> <p>7 (McKesson-Hartle Exhibits 165 8 and 140 marked for identification.)</p> <p>9 QUESTIONS BY MR. PAPANTONIO:</p> <p>10 Q. So we've got -- if we have a 11 glut of pills, we know the pills have to go 12 somewhere. That's the only thing I'm asking 13 you. Just common sense tells you if you got 14 too many pills, the pills have got to end up 15 somewhere. That's my point.</p> <p>16 You would agree with that, 17 true?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 THE WITNESS: I understand your 20 point.</p> <p>21 QUESTIONS BY MR. PAPANTONIO:</p> <p>22 Q. All right. So now let's go and 23 let's look at what -- let's look at what 24 the -- what Congress wrote to the president 25 of your company, what they said about what</p> |

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| <p>1 was happening in this little area called 2 Kermit. 3 You know where Kermit is, 4 correct? 5 MR. PAPANTONIO: Let's give him 6 P144. 7 MS. MOORE: McKesson-Hartle 76. 8 (McKesson-Hartle Exhibit 76 9 marked for identification.) 10 QUESTIONS BY MR. PAPANTONIO: 11 Q. Okay. So if we go through this 12 document, this is written Congress -- this is 13 Congress of the United States and -- it's 14 Congress of the United States, and it's 15 written to Mr. Hambergren. 16 Do you see that? 17 A. Yes. 18 Q. And Mr. Hambergren is the 19 president of the company. He's president and 20 chief executive officer of your company, 21 McKesson, and has been all the time you've 22 worked there, correct? 23 A. Correct. 24 Q. All right. So the first 25 paragraph -- let's look at that first</p> | <p>1 parts of this country were devastated by an 2 overabundance, a glut, of opioids. 3 You know that, right? 4 MS. HENN: Objection to form. 5 THE WITNESS: I knew certain 6 parts of the country, sure, were 7 impacted by the epidemic. 8 QUESTIONS BY MR. PAPANTONIO: 9 Q. It wasn't just West Virginia; 10 you know that? 11 A. I know that. 12 Q. You knew it was New Mexico. 13 That comes to your mind, doesn't it? 14 A. Correct. I know different 15 parts of the country. 16 Q. Ohio, right? Kentucky, right? 17 I mean, other -- other parts 18 besides West Virginia. I'm going to just 19 talk about West Virginia right here. 20 But it says, "As we mentioned 21 in that letter, the opioid epidemic has been 22 particularly devastating to West Virginia. 23 For example, in 2015, West Virginia had the 24 highest opioid overdose death rate in the 25 nation. In addition to leading to numerous</p> |
| <p>1 paragraph. It says, "Pursuant to the Rules X 2 and XI of the US House of Representatives, 3 the committee is continuing to investigate 4 the opioid epidemic in the US that is taking 5 115 lives a day." 6 You've known that that's a 7 figure that's been thrown around there for a 8 long time, and that is 115 people die every 9 day because of the opioid crisis, correct? 10 MS. HENN: Object to form. 11 THE WITNESS: I've seen those 12 type of figures, yeah. 13 QUESTIONS BY MR. PAPANTONIO: 14 Q. And then it says, "As part of 15 our investigation, the committee wrote to 16 you" -- he's talking to Mr. Hambergren -- "on 17 May 8, 2017, regarding your distribution 18 practices generally, and in particular with 19 West Virginia -- with respect to West 20 Virginia. As we mentioned in that letter, 21 the opioid epidemic has been particularly 22 devastating to West Virginia." 23 Now, you knew that when you 24 came to work with this company, that West 25 Virginia -- not just West Virginia but other</p> | <p>1 deaths, the opioid crisis in West Virginia 2 has also caused many social challenges for 3 its residents and has devastated the 4 economy." 5 Now, you remember me asking 6 you -- we started off, and we were talking 7 about the loss of life. And we looked at 8 the -- we looked at the death map. And -- 9 but this is saying, yes, loss of life is 10 something that we see, and we also see that 11 loss of life -- 12 MR. PAPANTONIO: Would you 13 underline "devastating the economy" 14 for me, Corey. 15 QUESTIONS BY MR. PAPANTONIO: 16 Q. It says, "Press reports 17 indicate the epidemic is now estimated to 18 cost West Virginia \$8.8 billion a year." 19 Had you ever seen that number 20 that -- that they had calculated it was 21 costing West Virginia \$8.8 billion a year? 22 A. I don't remember that exact 23 figure, but I've seen figures like that. 24 Q. Yeah. 25 And you understand why it costs</p> |

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| <p>1 the city or county money, correct?</p> <p>2 You understand the connection</p> <p>3 between EMTs, emergency care, hospital care,</p> <p>4 police, even court -- the court costs. You</p> <p>5 understand how all that is an economic loss?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 THE WITNESS: I understand</p> <p>8 what's typically included in those</p> <p>9 types of calculations, yes.</p> <p>10 QUESTIONS BY MR. PAPANTONIO:</p> <p>11 Q. What would you say? What would</p> <p>12 you say would be included --</p> <p>13 MS. HENN: Objection to form.</p> <p>14 QUESTIONS BY MR. PAPANTONIO:</p> <p>15 Q. -- in those type of economic</p> <p>16 losses in a county or a city?</p> <p>17 MS. HENN: Objection to form.</p> <p>18 THE WITNESS: The same types of</p> <p>19 things that you mentioned.</p> <p>20 QUESTIONS BY MR. PAPANTONIO:</p> <p>21 Q. Okay. Fair enough.</p> <p>22 You see it says -- page 2 --</p> <p>23 page 2. Go to page 2, please.</p> <p>24 It says, "Sav-Rite No. 1,</p> <p>25 Kermit, West Virginia."</p> | <p>1 MS. HENN: Objection to form.</p> <p>2 THE WITNESS: No, I didn't.</p> <p>3 QUESTIONS BY MR. PAPANTONIO:</p> <p>4 Q. But Michael Oriente, who worked</p> <p>5 for you, he would have been involved in what</p> <p>6 was happening in Kermit, West Virginia, true?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 QUESTIONS BY MR. PAPANTONIO:</p> <p>9 Q. Out of Landover?</p> <p>10 MS. HENN: Same objection.</p> <p>11 THE WITNESS: He may have been</p> <p>12 involved.</p> <p>13 QUESTIONS BY MR. PAPANTONIO:</p> <p>14 Q. Okay. It says, "According to</p> <p>15 the DEA, automation of reports and</p> <p>16 consolidation orders, data obtained by the</p> <p>17 committee, in 2006 McKesson shipped 2,211,630</p> <p>18 hydrocodone pills and 78,500 oxycodone to</p> <p>19 Strosnider Pharmacy, a/k/a Sav-Rite Pharmacy</p> <p>20 No. 1."</p> <p>21 Do you see that?</p> <p>22 A. I see that.</p> <p>23 MR. PAPANTONIO: Underline 78</p> <p>24 million 500 -- 78,500 oxycodone pills.</p> <p>25 QUESTIONS BY MR. PAPANTONIO:</p> |
| <p>1 That's a store that you sold</p> <p>2 pharmaceuticals -- that McKesson sold</p> <p>3 narcotics to, correct?</p> <p>4 A. Correct. I said correct.</p> <p>5 Q. I'm sorry, I didn't hear.</p> <p>6 It said, "In December of 2016,</p> <p>7 the Charleston Gazette reported that the</p> <p>8 Sav-Rite Pharmacy located in Kermit, West</p> <p>9 Virginia, was among the top purchasers of</p> <p>10 hydrocodone in West Virginia between 2007 and</p> <p>11 2012. According to US Census data, the town</p> <p>12 of Kermit had a population of 406 individuals</p> <p>13 in 2010."</p> <p>14 I used the 400. You remember</p> <p>15 using 406 as the population in Kermit?</p> <p>16 A. I do.</p> <p>17 Q. Okay. And then it says, "DEA</p> <p>18 data indicates that over a two-year period,</p> <p>19 McKesson shipped nearly 5 million doses of</p> <p>20 opioids to a pharmacy in a town of 406</p> <p>21 people."</p> <p>22 Now, let me make something real</p> <p>23 clear. That wasn't you. You didn't make the</p> <p>24 decision to ship all those opioids to Kermit,</p> <p>25 did you?</p> | <p>1 Q. It says, "This means that in</p> <p>2 2006, McKesson would have shipped in an</p> <p>3 average of 186,303 codone {sic} pills per</p> <p>4 month, for a 6,059 hydrocodone pills per</p> <p>5 day."</p> <p>6 Do you see that?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 THE WITNESS: I see that.</p> <p>9 QUESTIONS BY MR. PAPANTONIO:</p> <p>10 Q. All right. Is that the first</p> <p>11 time you've seen those kind of numbers?</p> <p>12 A. No.</p> <p>13 Q. Oh, you'd seen that before</p> <p>14 today?</p> <p>15 A. Generally these numbers, yeah.</p> <p>16 Q. Okay. And it says -- it says,</p> <p>17 the bottom line in that paragraph, "Applying</p> <p>18 the DEA data, it can be determined that</p> <p>19 McKesson supplied 76 percent of the Sav-Rite</p> <p>20 Pharmacy No. 1 hydrocodone pills that year."</p> <p>21 When was the first time you saw</p> <p>22 this document?</p> <p>23 A. I can't recall.</p> <p>24 Q. You agree by the time you got</p> <p>25 involved, all the damage had been done to</p> |

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| <p>1 Kermit, right?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 QUESTIONS BY MR. PAPANTONIO:</p> <p>4 Q. By the time you got done, they</p> <p>5 already had an increased rate of addiction,</p> <p>6 an increased rate of death in Kermit.</p> <p>7 A. Yeah.</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: I joined in 2014.</p> <p>10 QUESTIONS BY MR. PAPANTONIO:</p> <p>11 Q. That's all I'm trying to get</p> <p>12 at.</p> <p>13 Now the next paragraph it says,</p> <p>14 "The ARCOS data further shows that in the</p> <p>15 following year, 2007, McKesson shipped</p> <p>16 2,624,680 hydrocodone pills and 40,900</p> <p>17 oxycodone pills to Sav-Rite Pharmacy No. 1.</p> <p>18 This is equivalent to an average of 218,723</p> <p>19 hydrocodone pills per month, or 7,191</p> <p>20 hydrocodone pills per day."</p> <p>21 Now, sir, if that was shipped</p> <p>22 into Kermit, those are startling numbers,</p> <p>23 aren't they? I mean, look, just common</p> <p>24 sense, those are startling numbers. And I'm</p> <p>25 not saying you did that, but those are</p> | <p>1 MS. HENN: Objection to form.</p> <p>2 THE WITNESS: I understand.</p> <p>3 QUESTIONS BY MR. PAPANTONIO:</p> <p>4 Q. Okay. All right. It says, "In</p> <p>5 that same year, other distributors shipped</p> <p>6 1,651,160 total opioids to this pharmacy,"</p> <p>7 meaning that Sav-Rite No. 1 received --</p> <p>8 received a total of 4,316,740 doses of</p> <p>9 opioids pills from all distributors in 7 --</p> <p>10 in 2007.</p> <p>11 Now, let me just take a minute</p> <p>12 here at this very place where we're talking</p> <p>13 about those number of pills, and let me go</p> <p>14 back and talk to you about this picture that</p> <p>15 deals with glut. Okay?</p> <p>16 I'm going to use the word</p> <p>17 "glut." If that doesn't work for you, let's</p> <p>18 call it an overabundance of pills, if you</p> <p>19 want.</p> <p>20 But if the people there can't</p> <p>21 absorb all of these pills that we're talking</p> <p>22 about, the glut has to go somewhere. That's</p> <p>23 the point I'm trying to make.</p> <p>24 Do you understand that?</p> <p>25 A. I understand your point.</p> |
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| <p>1 startling numbers, aren't they?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 QUESTIONS BY MR. PAPANTONIO:</p> <p>4 Q. To a population of 406 people?</p> <p>5 A. Again, those are large numbers,</p> <p>6 but again I would -- you know, the context of</p> <p>7 the prescribing area and the population that</p> <p>8 that pharmacy may serve could change those a</p> <p>9 little bit. Doesn't mean it's not -- they're</p> <p>10 not still large numbers.</p> <p>11 Q. Well, you know the DEA</p> <p>12 evaluated that, and we'll talk about that in</p> <p>13 a moment. They looked around to see how does</p> <p>14 Kermit compare to other parts of West</p> <p>15 Virginia.</p> <p>16 You know that, right? Correct?</p> <p>17 A. I think so.</p> <p>18 Q. Okay.</p> <p>19 A. You'll have to refresh my</p> <p>20 memory on that.</p> <p>21 Q. So in other words, the idea of</p> <p>22 saying, well, there were just more hospitals</p> <p>23 around Kermit or more pharmacies, that</p> <p>24 doesn't get that many pills into Kermit, does</p> <p>25 it?</p> | <p>1 Q. All right. And one place that</p> <p>2 the glut goes is it's diverted to other parts</p> <p>3 of that area. You would agree with that,</p> <p>4 right?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 QUESTIONS BY MR. PAPANTONIO:</p> <p>7 Q. We know that for a fact?</p> <p>8 A. It can be, yes.</p> <p>9 Q. All right. Let's go now back</p> <p>10 to this. And it says -- all right. I'm at</p> <p>11 the top of page 3. The top of page 3 says,</p> <p>12 "McKesson alone supplied Sav-Rite No. 1 with</p> <p>13 roughly eight times the amount of hydrocodone</p> <p>14 for an average retail pharmacy in rural West</p> <p>15 Virginia in 2006."</p> <p>16 In 2006, you were still at</p> <p>17 Target; is that a correct statement? You</p> <p>18 weren't at -- you were not at McKesson?</p> <p>19 A. I was at Target.</p> <p>20 Q. And almost ten times the amount</p> <p>21 of hydrocodone that an average retail</p> <p>22 pharmacy -- here's what I'm getting at, you</p> <p>23 see. They've looked at average comparisons,</p> <p>24 and it says that that's -- first of all, you</p> <p>25 see --</p> |

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| <p>1 MR. PAPANTONIO: Underline 2 McKesson at the top of that paragraph 3 there. McKesson. We're talking about 4 McKesson. We're not talking about any 5 other company besides McKesson. 6 QUESTIONS BY MR. PAPANTONIO: 7 Q. It says, "McKesson alone" -- 8 MR. PAPANTONIO: Underline 9 "alone," please.</p> <p>10 QUESTIONS BY MR. PAPANTONIO: 11 Q. -- "supplied Sav-Rite No. 1 12 with roughly eight times the amount of 13 hydrocodone that an average retail pharmacy 14 in rural West Virginia received in 2006, and 15 almost ten times the amount of hydrocodone 16 that an average retail pharmacy -- that an 17 average retail pharmacy in rural West 18 Virginia received in 2007." 19 To be real clear -- I want to 20 make it clear -- this all had happened by the 21 time you got there, correct? 22 A. It did. 23 Q. It wasn't -- at this point 24 there's nothing you can do about water under 25 that bridge. There's nothing you can do</p> | <p>1 down and says, "In March 2008, federal 2 authorities began investigating Sav-Rite 3 No. 1 and a medical complex owned by 4 individuals associated with Sav-Rite. In 5 2009, authorities conducted a raid on the 6 medical complex and on Sav-Rite. This raid 7 was publicized by, among other sources, the 8 Huntington, West Virginia, Herald Tribune, 9 which reported" -- let's go to the next page. 10 Now, first of all, I want to 11 say this: You've been here all day long and 12 people have been asking you tough questions, 13 but I want to -- I want to say this: You 14 knew that the importance of looking at news 15 reports was something that you did in your 16 regulatory process, right?</p> <p>17 MS. HENN: Objection to form. 18 QUESTIONS BY MR. PAPANTONIO: 19 Q. When you came along, you said, 20 "I'm going to look at news reports because 21 that's important," true? 22 A. It's part of the information, 23 yeah. 24 Q. We talked about a few already, 25 but we're going to talk about some more.</p> |
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| <p>1 about what happened in Kermit. 2 Can we agree to that? 3 MS. HENN: Objection to form. 4 THE WITNESS: Agreed. 5 QUESTIONS BY MR. PAPANTONIO: 6 Q. Now, let's go down to -- let's 7 go down here, B. It says, "B, McKesson 8 resumed supplying opioids to Sav-Rite after 9 federal authorities began investigating the 10 pharmacy and after press accounts publicized 11 law enforcement raids on the pharmacy." 12 Now -- okay. They'd had -- the 13 place had been raided by the DEA, right? 14 They -- they -- everybody 15 understood at this point that the numbers for 16 400 -- a population of 406 people were ten 17 times what they should have been compared to 18 the average pharmacy, right? 19 According to what we just saw, 20 true? 21 MS. HENN: Objection to form. 22 THE WITNESS: According to 23 what's in here, correct. 24 QUESTIONS BY MR. PAPANTONIO: 25 Q. All right. And then it goes</p> | <p>1 A. Yeah. 2 Q. But back here they're taking -- 3 they're saying that the Gazette newspaper 4 right there in town was telling this story. 5 And let's read what it said. Let's see what 6 the Gazette said in that newspaper report. 7 It says, "In an area with a 8 population of just a few hundred, the two 9 Sav-Rite pharmacies received millions of 10 doses -- units of the painkiller hydrocodone 11 in 2006, enough to rank 22nd nationally in 12 most hydrocodone units purchased by retail 13 pharmacies." 14 It says, "One federal agent who 15 investigated the pharmacies said 16 prescriptions are filled in such a rate that 17 Sav-Rite workers literally throw bags 18 containing the drugs over a divider and onto 19 a counter in order to keep up the pace. The 20 agent also noticed that one cash drawer was 21 so full that the clerk could not get it to 22 close properly." 23 Now, let me take you back up 24 with a couple of facts. 25 When you came along -- what</p> |

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| <p>1 year was it?</p> <p>2 A. 2014.</p> <p>3 Q. 2014.</p> <p>4 This would have been a pretty</p> <p>5 important bit of information for you if you</p> <p>6 read that in the newspaper, wouldn't it? If</p> <p>7 you saw that handle in the newspaper, that</p> <p>8 would be pretty important to Mr. Hartle,</p> <p>9 correct?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 THE WITNESS: It would be</p> <p>12 important.</p> <p>13 QUESTIONS BY MR. PAPANTONIO:</p> <p>14 Q. And the truth is, at this point</p> <p>15 McKesson was selling 75 percent of the</p> <p>16 narcotics that were going to this area,</p> <p>17 correct? According to what we just read,</p> <p>18 75 percent --</p> <p>19 MS. HENN: Objection to form.</p> <p>20 QUESTIONS BY MR. PAPANTONIO:</p> <p>21 Q. -- right?</p> <p>22 A. According to what you shared</p> <p>23 earlier and what's in here, yes.</p> <p>24 Q. Okay. And so 75 percent of</p> <p>25 this problem that we're looking at -- well,</p> | <p>1 MS. HENN: Same objection.</p> <p>2 THE WITNESS: -- the full</p> <p>3 context of all the information and --</p> <p>4 before I made that decision.</p> <p>5 QUESTIONS BY MR. PAPANTONIO:</p> <p>6 Q. How about just the information</p> <p>7 I gave you just then? Is that something that</p> <p>8 would possess you to go back and do business</p> <p>9 with them?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 THE WITNESS: That would be</p> <p>12 part of the information to make the</p> <p>13 decision.</p> <p>14 QUESTIONS BY MR. PAPANTONIO:</p> <p>15 Q. Yeah. It'd be important</p> <p>16 information, wouldn't it?</p> <p>17 A. Certainly it's important</p> <p>18 information.</p> <p>19 Q. Yeah.</p> <p>20 It says, "It does not appear</p> <p>21 that McKesson shipped drugs to Sav-Rite No. 1</p> <p>22 between 2008 and 2010; however, DEA data</p> <p>23 acquired by the committee indicates that in</p> <p>24 2011 McKesson again began shipping drugs to</p> <p>25 Sav-Rite No. 1."</p> |
| <p>1 let me scratch that. I'll just keep on</p> <p>2 reading so we can get through this.</p> <p>3 It says, "The owner of</p> <p>4 Sav-Rite, James Wooley, was ultimately</p> <p>5 convicted of conspiracy to acquire or obtain</p> <p>6 controlled substances and sentenced to prison</p> <p>7 in 2012."</p> <p>8 Mr. Hartle would have never</p> <p>9 made the decision to go back and do business</p> <p>10 with these people after all this happened,</p> <p>11 would you?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 QUESTIONS BY MR. PAPANTONIO:</p> <p>14 Q. I'm trying to use your</p> <p>15 judgment. Understand, the raid took place;</p> <p>16 man went to prison; McKesson's selling</p> <p>17 75 percent of the drugs. It's 10 percent --</p> <p>18 it's ten times the national average of</p> <p>19 narcotics.</p> <p>20 Are you going to go back and do</p> <p>21 business with Sav-Rite?</p> <p>22 MS. HENN: Objection to form.</p> <p>23 QUESTIONS BY MR. PAPANTONIO:</p> <p>24 Q. You think that's good judgment?</p> <p>25 A. I would need to have --</p> | <p>1 Do you see that?</p> <p>2 A. I see that.</p> <p>3 Q. Now, let's take a look at the</p> <p>4 last paragraph there. "According to federal</p> <p>5 search warrant, Sav-Rite Kermit was ranked</p> <p>6 22nd in the nation among retail pharmacies</p> <p>7 with respect to purchase of hydrocodone dose</p> <p>8 units. The average per pharmacy, 2006, was</p> <p>9 97,431. Reports citing residents of Kermit</p> <p>10 and surrounding region state that everyone in</p> <p>11 Kermit, just about everyone in the wooded</p> <p>12 hollows of Mingo County" -- that's where my</p> <p>13 partner there, Paul Farrell, is from.</p> <p>14 You met Paul Farrell yesterday,</p> <p>15 right?</p> <p>16 A. I did.</p> <p>17 Q. Yeah. It says, "They knew that</p> <p>18 Sav-Rite was a pill mill." Sav-Rite was a</p> <p>19 pill mill.</p> <p>20 What is a pill mill in your</p> <p>21 definition of a pill mill?</p> <p>22 A. I mean, you could describe them</p> <p>23 in many ways, but diverting drugs, you know,</p> <p>24 not dispensing for legitimate medical</p> <p>25 reasons.</p> |
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| <p>1 Q. And in the records of McKesson 2 we'll get to in a minute, you remember 3 pictures of pill mills actually being 4 included in PowerPoints that were presented 5 at McKesson, at their meetings, actual 6 PowerPoints of what pill mills looked like, 7 people standing around in line.</p> <p>8 You remember pictures like 9 that, don't you?</p> <p>10 A. I do.</p> <p>11 Q. Okay. It says, "Press reports 12 describe a stampede of customers frequenting 13 the pharmacy, so many that the town had to 14 hire an extra police officer to handle a 15 spike in crime, extra crews to clean up the 16 mess that the clientele left behind."</p> <p>17 Now here's my -- here's my 18 question: Why should taxpayers be 19 responsible for cleaning up the mess that was 20 left by McKesson because of what was created 21 by this glut of pills in this town?</p> <p>22 MS. HENN: Objection to form.</p> <p>23 QUESTIONS BY MR. PAPANTONIO:</p> <p>24 Q. Do you think that's fair, for 25 taxpayers that have nothing to do with all</p> | <p>1 QUESTIONS BY MR. PAPANTONIO: 2 Q. 6 billion? 7 billion? 3 MS. HENN: Objection to form.</p> <p>4 QUESTIONS BY MR. PAPANTONIO: 5 Q. Does that sound right? 6 A. At this time, I don't know what 7 the numbers were.</p> <p>8 Q. But it was in the billions, 9 right?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 QUESTIONS BY MR. PAPANTONIO: 12 Q. It was in the billions. 13 McKesson was making billions of dollars 14 selling narcotics in places like we're 15 talking about right here, correct?</p> <p>16 MS. HENN: Objection to form.</p> <p>17 THE WITNESS: It could be. I'd 18 have to understand the total and the 19 percentages, and I'm not 100 percent 20 sure on that.</p> <p>21 QUESTIONS BY MR. PAPANTONIO: 22 Q. So my question is: If you're 23 making billion -- if you're making money, why 24 should taxpayers have to pay for cleaning up 25 the mess that was left behind while you were</p> |
| <p>1 this -- they didn't make a dime on selling 2 narcotics. McKesson made the money selling 3 narcotics.</p> <p>4 Why should taxpayers have to 5 pay for increased EMTs, for increased police, 6 for cleaning up the mess? Why should 7 taxpayers have to pay for that?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 QUESTIONS BY MR. PAPANTONIO:</p> <p>10 Q. Do you have a good reason for 11 that, why taxpayers should foot that bill?</p> <p>12 MS. HENN: Same objection.</p> <p>13 THE WITNESS: I don't have a 14 good reason.</p> <p>15 QUESTIONS BY MR. PAPANTONIO:</p> <p>16 Q. Yeah.</p> <p>17 In other words, taxpayers 18 didn't make money on this. McKesson made -- 19 what were you making -- how many billion 20 dollars a year on the average was McKesson 21 making on selling these pills?</p> <p>22 MS. HENN: Objection to form.</p> <p>23 THE WITNESS: Again, I don't 24 know specific numbers on --</p> | <p>1 making that money? 2 You don't feel like that's 3 fair, do you?</p> <p>4 MS. HENN: Objection to form.</p> <p>5 QUESTIONS BY MR. PAPANTONIO:</p> <p>6 Q. That's not fair, is it?</p> <p>7 A. I don't have a response for 8 you.</p> <p>9 Q. Mr. Hartle, you know what, I've 10 become accustomed to us talking logic and 11 common sense. So let me continue that. 12 Okay?</p> <p>13 Let me ask you this question: 14 It doesn't seem fair that taxpayers should 15 have to foot the bill for EMTs, for police, 16 for hospital care, for court costs that might 17 be attributed to a glut of pills being 18 shipped into an area like this by McKesson. 19 That's just not fair, is it?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: I think logically 22 it doesn't seem fair, but --</p> <p>23 QUESTIONS BY MR. PAPANTONIO:</p> <p>24 Q. That's all --</p> <p>25 A. -- but there's many -- there's</p> |
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| <p>1 many involved in the -- you know, in the 2 entire system.</p> <p>3 Q. I get that. I get that.</p> <p>4 But you would agree that 5 wouldn't be fair. We can at least move on 6 from there, right?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 QUESTIONS BY MR. PAPANTONIO:</p> <p>9 Q. Yes?</p> <p>10 A. We can move on from there.</p> <p>11 Q. Okay. So let me go down here. 12 It says, A. Go down -- see where it says, 13 "According to DEA data, McKesson supplied a 14 pharmacy in Mount Gay-Shamrock" --</p> <p>15 MR. PAPANTONIO: Ms. Henn, tell 16 me when I'm -- you're watching the 17 time; I'm not.</p> <p>18 MS. HENN: That's not what was 19 that was about, but the videographer 20 can tell you.</p> <p>21 MR. PAPANTONIO: How much time 22 do I have left here?</p> <p>23 VIDEOGRAPHER: 18 minutes, sir.</p> <p>24 MR. PAPANTONIO: 18 minutes.</p> <p>25 THE WITNESS: What page are you</p> | <p>1 amount of the hydrocodone that an average 2 pharmacy in rural West Virginia would have 3 been expected to receive."</p> <p>4 I read that.</p> <p>5 Then it goes on to say,</p> <p>6 "DEA" --</p> <p>7 MR. PAPANTONIO: When I'm ten 8 minutes -- let me know when I'm ten 9 minutes out.</p> <p>10 QUESTIONS BY MR. PAPANTONIO:</p> <p>11 Q. "DEA ARCos data showed that 12 between 2006 and 2014, McKesson supplied 13 Family Discount Pharmacy in Mount Shamrock 14 {sic} with 5,122,290 {sic} hydrocodone 15 pills" -- you see that? -- "and 695,000 16 oxycodone pills, for a total of 5,818,020 17 pills."</p> <p>18 Do you know what the -- do you 19 know what the population of that place was? 20 If I told you it was 1,700, 21 would you be surprised? Population of 1,700 22 people, would that surprise you?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: It would surprise 25 me. I don't know what the number is,</p> |
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| <p>1 on, sir?</p> <p>2 QUESTIONS BY MR. PAPANTONIO:</p> <p>3 Q. I'm on the same page.</p> <p>4 A. On the same page still?</p> <p>5 Q. I'm on the same page.</p> <p>6 It says, "According to DEA 7 data, McKesson supplied a pharmacy in Mount 8 Gay-Shamrock, West Virginia, with more than 9 six times the amount of hydrocodone that an 10 average pharmacy in rural West Virginia would 11 have been expected to receive."</p> <p>12 Do you see that?</p> <p>13 A. I'm sorry, I was on the 14 previous page. Let me read that real quick.</p> <p>15 Q. "According to DEA data." Yeah.</p> <p>16 Yeah.</p> <p>17 "According to the DEA data, 18 McKesson supplied a pharmacy in Mount 19 Gay-Shamrock, West Virginia, with more than 20 six times the amount of hydrocodone" --</p> <p>21 It's talking about McKesson 22 here, right?</p> <p>23 A. I see that.</p> <p>24 Q. Okay.</p> <p>25 -- "more than six times the</p> | <p>1 but...</p> <p>2 QUESTIONS BY MR. PAPANTONIO:</p> <p>3 Q. If it's only 1,700, those are 4 startling numbers, aren't they?</p> <p>5 A. It's a small population.</p> <p>6 Q. Yeah.</p> <p>7 Okay. It says, "McKesson 8 provided this pharmacy with 986,500 oxycodone 9 pills, in addition to 300,100 oxycodone 10 pills, a 193 percent increase from the year 11 prior."</p> <p>12 Do you see that? "193 percent 13 increase from the year prior" in the amount 14 of narcotics that they're selling to this 15 area.</p> <p>16 And from -- "this equals an 17 average rate in 2013 of 82,000 hydrocodone 18 pills per month or 2,703 pills per day."</p> <p>19 You see that?</p> <p>20 A. I see those numbers.</p> <p>21 Q. "And 25,000 oxycodone pills per 22 month."</p> <p>23 Now, what I'm asking you did 24 you ever go back and look at this? When you 25 came into your job, did you go back and look</p> |

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| <p>1 at these kind of numbers and say, "We must do 2 better. People are dying because of this. 3 We must do better"?</p> <p>4 Did you ever do that? 5 MS. HENN: Objection to form. 6 THE WITNESS: I didn't 7 specifically go back and look at these 8 numbers, but as I came in, and why I 9 joined McKesson, was to help evolve 10 the program and do better and evolve 11 the processes.</p> <p>12 QUESTIONS BY MR. PAPANTONIO:</p> <p>13 Q. But by the time you came 14 along --</p> <p>15 MR. PAPANTONIO: Can I see the 16 death map again, please?</p> <p>17 QUESTIONS BY MR. PAPANTONIO:</p> <p>18 Q. You came about -- would you 19 look at the death map, please? By the time 20 you came along in -- did you say 2014?</p> <p>21 A. 2014.</p> <p>22 Q. Show the jury -- let's put up 23 on the screen. If you got there 2014, let's 24 look at the damage that was already done even 25 before you were able to do a thing,</p> | <p>1 this. It's in 1165, what I'm looking for. 2 1280.</p> <p>3 MR. PAPANTONIO: This is -- 4 we're going to give you a copy of 5 these pictures.</p> <p>6 MS. HENN: Okay. Just as 7 long --</p> <p>8 MR. PAPANTONIO: They are 9 attached -- just so you know, they are 10 attached to 1165.</p> <p>11 MS. HENN: I see.</p> <p>12 MS. MOORE: This is 13 McKesson-Hartle 135. 14 (McKesson-Hartle Exhibit 135 15 marked for identification.)</p> <p>16 MR. PAPANTONIO: Sir, do we 17 have that? Do we have that, Corey? 18 Do we have those pictures? Because I 19 can put them up on the -- I can put 20 them on right here if you don't.</p> <p>21 Okay. Let me go -- oh, there 22 they are. Okay.</p> <p>23 QUESTIONS BY MR. PAPANTONIO:</p> <p>24 Q. Sir, these pictures, you've 25 seen pictures similar to this in your own --</p> |
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| <p>1 Mr. Hartle. 2 2014, that's the map. 3 You see that? 4 A. I've seen that. 5 Q. Okay. And between me and you, 6 I don't hold you responsible for that, but 7 you understand that's what you walked into. 8 A. I understand that. 9 MR. PAPANTONIO: All right. 10 We're going to take a quick break and 11 save ten minutes and see if we can 12 wrap this up real quick. 13 MS. HENN: All right. 14 MR. PAPANTONIO: Thank you. 15 VIDEOGRAPHER: The time is 16 5:25 p.m., and we're going off the 17 record. 18 (Off the record at 5:25 p.m.) 19 VIDEOGRAPHER: The time is 20 5:34 p.m., and we're back on the 21 record. 22 QUESTIONS BY MR. PAPANTONIO: 23 Q. Sir, the -- in document 1165 -- 24 let me show this to you and just put this up 25 on the screen. This is 1280. I'll get to</p> | <p>1 in your own PowerPoints, right? These are 2 actually pictures of -- let me just represent 3 to you, these are pictures of pill mills. 4 A. I've seen pictures like this, 5 yes. 6 Q. Okay. And the other part of 7 it, you see these people, they're sitting 8 outside the pill mill waiting to get pills. 9 Do you see that? 10 A. I do see that. 11 Q. And you've seen similar 12 pictures to this in the past, right? 13 A. I have. 14 Q. And it's actually -- some of 15 these pictures have actually appeared in some 16 of the -- some of your literature, some of 17 your PowerPoints, correct? 18 A. Correct. 19 Q. Okay. Let's mark -- 20 MR. PAPANTONIO: Did we mark 21 this picture right here? 22 MS. HENN: Yes. 23 MR. PAPANTONIO: Okay. 24 QUESTIONS BY MR. PAPANTONIO: 25 Q. And then I -- let me just go</p> |

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| <p>1 through some -- through a couple -- we don't 2 have much time, but let me just go through a 3 couple of other things.</p> <p>4 Your theory about -- again, 5 about newspaper articles and reading them and 6 why it's so important for people to know 7 what's going on in the news, I want to show 8 you 951.</p> <p>9 Had you ever heard of a town of 10 Williamson in West Virginia that actually 11 took on the name of Williamson?</p> <p>12 MS. MOORE: McKesson-Hartle 13 101.</p> <p>14 (McKesson-Hartle Exhibit 101 15 marked for identification.)</p> <p>16 QUESTIONS BY MR. PAPANTONIO:</p> <p>17 Q. Had anybody ever told you that 18 the problem was so bad all the way back in 19 2011 -- this is the Charleston Gazette-Mail. 20 And, sir, this is actually -- had you seen 21 see this article before? This the 22 Gazette-Mail talking about the very area 23 we've been talking about.</p> <p>24 A. I'm not sure.</p> <p>25 Q. Okay. Well, just for the</p> | <p>1 Pilliamson instead of Williamson, said Mingo 2 County prosecuting attorney Michael Sparks. 3 It was an open secret, you might say, federal 4 and state authorities are handling an ongoing 5 investigation of the clinics, but Sparks says 6 prescription drug abuse causes most of the 7 local crimes he prosecutes - robberies, 8 assaults, forgery."</p> <p>9 Do you see that?</p> <p>10 "Even though the clinics are 11 now shuttered, substance abuse still plagues 12 the area. People can still find pills."</p> <p>13 Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. Now, you understand the 16 other -- the other part of this. You 17 understand once opioids -- once people are 18 addicted to opioids, narcotic opioids, their 19 chances of them moving to heroin are 20 dramatically increased.</p> <p>21 You've heard that before, 22 right?</p> <p>23 A. I have.</p> <p>24 Q. I think you've actually --</p> <p>25 A. It's in my presentations.</p> |
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| <p>1 record, I want to point out that as we go 2 forward, this is a document -- this is a 3 newspaper article that is actually attached 4 to the Congressional record.</p> <p>5 A. Okay.</p> <p>6 Q. This came out of the hearings 7 of the Congressional record.</p> <p>8 A. Okay.</p> <p>9 Q. But I just want to ask you: 10 Had you ever heard of Williamson, West 11 Virginia, being -- it called Pilliamson? 12 Headline's "2011," that's the date, 13 "prescription drug abuse plagues small West 14 Virginia town." And that's in the 15 Gazette-Mail. And then it says, "a Pulitzer 16 Prize-winning newspaper."</p> <p>17 Have you ever seen that before, 18 the term "Pilliamson," I guess is what I'm 19 wondering.</p> <p>20 A. I believe I may have, yes.</p> <p>21 Q. And it says -- I have it 22 right -- it says, "A couple of blocks away, 23 people lined up before 6 a.m. to visit 24 another doctor's -- another clinic's doctor. 25 The community was frustrated. They called it</p> | <p>1 Q. It's in your presentation. 2 You've talked to people about it. 3 When you were trying to warn 4 other people about this issue, this is 5 something you raised, that the natural 6 progression goes from opioids to heroin, 7 true?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 QUESTIONS BY MR. PAPANTONIO:</p> <p>10 Q. You know that?</p> <p>11 A. I've shared some of those data 12 points about the -- you know.</p> <p>13 Q. Yeah.</p> <p>14 So I don't have to go into 15 that. You would agree that that is a fact of 16 life, true?</p> <p>17 MS. HENN: Objection to form.</p> <p>18 QUESTIONS BY MR. PAPANTONIO:</p> <p>19 Q. True? That's all I am asking.</p> <p>20 A. Again, I agree that -- what 21 I've read and did -- I did.</p> <p>22 Q. Yes, sir.</p> <p>23 Okay. This is a chart that is 24 a -- also a part of 1165, document there in 25 front of you. It's on page -- it's on .7 of</p> |

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| <p>1 1165.</p> <p>2 No, sir, it's not in there.</p> <p>3 It's in 1165. Let me hand you another copy</p> <p>4 just so I make sure you have it.</p> <p>5 MS. MOORE: McKesson-Hartle</p> <p>6 134.</p> <p>7 (McKesson-Hartle Exhibit 134</p> <p>8 marked for identification.)</p> <p>9 QUESTIONS BY MR. PAPANTONIO:</p> <p>10 Q. If you'll go to their --</p> <p>11 Mr. Hartle, if you'll look at page 7, .7 --</p> <p>12 let's say .7 in the top right-hand corner.</p> <p>13 A. Okay.</p> <p>14 Q. Is that -- do you see a chart</p> <p>15 there?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. That chart, if you'll</p> <p>18 notice -- and I think this is -- the point I</p> <p>19 want to raise here is you see how -- when</p> <p>20 opioid -- opioid sales increase. Opioid</p> <p>21 sales actually grow during the same time that</p> <p>22 you see opioid deaths grow.</p> <p>23 Opioid sales is the green, is</p> <p>24 the green line, right? That's opioid sales?</p> <p>25 A. Correct.</p> | <p>1 MS. HENN: Objection to form.</p> <p>2 QUESTIONS BY MR. PAPANTONIO:</p> <p>3 Q. So you were aware -- I mean,</p> <p>4 there's no guesswork here. You know that as</p> <p>5 people continue to die, you were selling</p> <p>6 more. People were actually increasing</p> <p>7 addiction to opioids, which increased sales</p> <p>8 for McKesson.</p> <p>9 MS. HENN: Objection to form.</p> <p>10 QUESTIONS BY MR. PAPANTONIO:</p> <p>11 Q. Correct?</p> <p>12 A. I understand this visual and</p> <p>13 the trends of sales and --</p> <p>14 Q. Yeah.</p> <p>15 A. -- addiction.</p> <p>16 Q. Sir, before you got there, did</p> <p>17 you know about any discussion that the --</p> <p>18 that the management at McKesson had actually</p> <p>19 internalized in their business plan the glut</p> <p>20 sale of opioids that they knew was going move</p> <p>21 into diversion across the country?</p> <p>22 Did you -- had you ever heard</p> <p>23 any discussion that this glut, this extra --</p> <p>24 these extra pills that we're selling in</p> <p>25 places like Kermit, in Stollings, like we've</p> |
| <p>Page 483</p> <p>1 Q. That's actually -- you're</p> <p>2 actually increasing sales during these years</p> <p>3 that people -- that there's an increased</p> <p>4 amount of death. Your sales are increasing</p> <p>5 right in line with the increase of death.</p> <p>6 You see that?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 QUESTIONS BY MR. PAPANTONIO:</p> <p>9 Q. I mean, isn't that --</p> <p>10 A. I see the sales. Yeah, I</p> <p>11 understand this chart.</p> <p>12 Q. Yeah, isn't that what -- that</p> <p>13 captures that, that if -- while McKesson is</p> <p>14 selling more narcotics, more people are</p> <p>15 dying. And this chart shows that, doesn't</p> <p>16 it? That's what that chart shows, right?</p> <p>17 MS. HENN: Objection to form.</p> <p>18 THE WITNESS: Sales across the</p> <p>19 country, anybody who sells controls,</p> <p>20 right.</p> <p>21 QUESTIONS BY MR. PAPANTONIO:</p> <p>22 Q. Yeah, but this is -- in other</p> <p>23 words, this is a document -- this is</p> <p>24 McKesson -- you see on the bottom, this is a</p> <p>25 McKesson document?</p> | <p>Page 485</p> <p>1 just been seeing, that that was actually</p> <p>2 internalized as part of the business plan of</p> <p>3 McKesson to where they said, "Yeah, we know</p> <p>4 this is going on, but you know what, look</p> <p>5 what it's doing for business. It's</p> <p>6 increasing our business. It's increasing</p> <p>7 sales"?</p> <p>8 Before you got there -- I'm not</p> <p>9 suggesting you had anything to do with</p> <p>10 that -- but had you ever heard discussion</p> <p>11 about the internalization as a business plan</p> <p>12 of diversion of narcotic drugs from McKesson?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: Not that I'm</p> <p>15 aware.</p> <p>16 QUESTIONS BY MR. PAPANTONIO:</p> <p>17 Q. All right. Fair enough.</p> <p>18 Sir, you would agree, won't</p> <p>19 you, if my partner there, Paul Farrell -- if</p> <p>20 Paul Farrell were -- just wanted to say,</p> <p>21 "Hey, this is a pretty good money maker. I</p> <p>22 want to go to Kermit and I just want to</p> <p>23 distribute 8 million pills," if he did that,</p> <p>24 he'd end up in prison, wouldn't he?</p> <p>25 MS. HENN: Objection to form.</p> |

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| <p>1 QUESTIONS BY MR. PAPANTONIO:</p> <p>2 Q. Wouldn't he?</p> <p>3 He can't do that. He can't</p> <p>4 go -- he can't go to Kermit and distribute 8</p> <p>5 million narcotic pills. He'd go to prison,</p> <p>6 wouldn't he?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 THE WITNESS: He can't as an</p> <p>9 individual.</p> <p>10 QUESTIONS BY MR. PAPANTONIO:</p> <p>11 Q. Well, what if he was a</p> <p>12 corporation, he called it Farrell,</p> <p>13 Incorporated, and he likes the idea that he</p> <p>14 can make money selling narcotic pills because</p> <p>15 he's making a lot of money, what happens if</p> <p>16 he goes to Kermit and sells 8 million pills?</p> <p>17 Does he go to prison?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 THE WITNESS: I don't know.</p> <p>20 QUESTIONS BY MR. PAPANTONIO:</p> <p>21 Q. Well, it's illegal, isn't it --</p> <p>22 MS. HENN: Objection to form.</p> <p>23 QUESTIONS BY MR. PAPANTONIO:</p> <p>24 Q. -- for him to go to town and</p> <p>25 sell 8 million pills. Paul Farrell shows up</p> | <p>1 prescription drugs for many, many</p> <p>2 reasons.</p> <p>3 QUESTIONS BY MR. PAPANTONIO:</p> <p>4 Q. But the difference between you</p> <p>5 and Paul, my partner, Farrell there, he</p> <p>6 doesn't have a license. So he did that, he</p> <p>7 sold 8 million extra glut -- excess pills in</p> <p>8 Kermit, he'd be in a lot of trouble, wouldn't</p> <p>9 he?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 THE WITNESS: I'm not sure. He</p> <p>12 could.</p> <p>13 QUESTIONS BY MR. PAPANTONIO:</p> <p>14 Q. Yeah. The difference is you</p> <p>15 had a license to do it. Your company had a</p> <p>16 license that was given to you by the</p> <p>17 taxpayers of this country, by the consumers</p> <p>18 in this country.</p> <p>19 You had the right to sell this</p> <p>20 drug only because you had that license,</p> <p>21 right?</p> <p>22 MS. HENN: Objection to form.</p> <p>23 QUESTIONS BY MR. PAPANTONIO:</p> <p>24 Q. Right?</p> <p>25 A. They gave us the right to sell</p> |
| Page 487 | Page 489 |
| <p>1 with a big bag of pills, 8 million pills, and</p> <p>2 starts selling them in Kermit, that's</p> <p>3 breaking the law, isn't he?</p> <p>4 MS. HENN: Objection to form.</p> <p>5 THE WITNESS: It depends on the</p> <p>6 scenario. Is he a distributor? I</p> <p>7 mean, I don't know.</p> <p>8 QUESTIONS BY MR. PAPANTONIO:</p> <p>9 Q. Well, that's the point, isn't</p> <p>10 it? That's the point.</p> <p>11 You had a special license to do</p> <p>12 that, and Paul Farrell doesn't, correct?</p> <p>13 That's the only thing that's different. You</p> <p>14 had a license to do it that you -- you had</p> <p>15 the license based on your obligation to</p> <p>16 follow the law. Not you, but McKesson. They</p> <p>17 had an obligation to follow the law, and in</p> <p>18 exchange they had the right to carry a big</p> <p>19 bag of pills and sell 8 million pills in</p> <p>20 Kermit, as long as they could justify it as</p> <p>21 legitimate distribution, true?</p> <p>22 MS. HENN: Objection to form.</p> <p>23 THE WITNESS: Wouldn't</p> <p>24 characterize it like that. We had a</p> <p>25 license to sell all sorts of</p> | <p>1 those drugs.</p> <p>2 Q. And in exchange, all they asked</p> <p>3 for is just follow the law. Just follow the</p> <p>4 law, report suspicious orders, right? That's</p> <p>5 all they asked you to do: Report suspicious</p> <p>6 orders, and don't sell too many pills</p> <p>7 throughout this country. Don't sell too many</p> <p>8 pills in places like Kermit.</p> <p>9 That's all they asked you to</p> <p>10 do, right?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 THE WITNESS: Do our part to</p> <p>13 prevent diversion.</p> <p>14 QUESTIONS BY MR. PAPANTONIO:</p> <p>15 Q. Yeah. And in exchange they</p> <p>16 handed you a license, and you could go make</p> <p>17 money with that license, right?</p> <p>18 A. We can.</p> <p>19 MR. PAPANTONIO: All right.</p> <p>20 Thank you, sir. I don't have any</p> <p>21 further questions.</p> <p>22 MS. HENN: Okay. Let's go off</p> <p>23 the record. I do have some questions,</p> <p>24 and we'll need to change spots.</p> <p>25 VIDEOGRAPHER: Okay. The time</p> |

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| <p>1 is 5:46 p.m. We're going off the 2 record. 3 (Off the record at 5:46 p.m.) 4 VIDEOGRAPHER: The time is 5 5:48 p.m. We're back on the record. 6 CROSS-EXAMINATION 7 QUESTIONS BY MS. HENN: 8 Q. Good afternoon, Mr. Hartle. 9 A. Good afternoon. 10 Q. You testified yesterday and 11 today that you joined McKesson in 2014; is 12 that right? 13 A. I did. 14 Q. Before joining McKesson, you 15 explained that you worked at Target? 16 A. I did. 17 Q. What positions did you hold at 18 Target? 19 A. I had a variety of positions in 20 the almost 19 years that I worked for Target. 21 I worked in both the assets protection and 22 the corporate security divisions and held 23 many different roles at many different 24 levels, from being in the actual stores to 25 leading districts or groups or larger groups</p> | <p>1 country to drive action and follow up with 2 different locations. 3 We used other analytics related 4 to prescribers to determine when we may want 5 to shut off a particular prescriber, and we 6 also monitored trends across the country and 7 proactively engaged with different offices of 8 diversion control. 9 All of that helped us also 10 influence and help teach and train Target 11 internally and help revise policies and 12 procedures related to pharmacy and diversion 13 specifically. 14 Q. When you joined McKesson in 15 2014, you were a senior director of 16 regulatory affairs? 17 A. Yes. 18 Q. Why did you join McKesson in 19 2014? 20 A. I had a great career at Target 21 and many opportunities, in fact had just been 22 given some additional responsibilities, but 23 have always been driven by the work that 24 we -- my team started and was doing at Target 25 related to diversion. I had an opportunity</p> |
| <p>1 of stores, primarily focused on threat and 2 fraud in investigations. 3 I additionally led some of the 4 more specialized strategies for Target 5 related to things like organized retail crime 6 and fraud. 7 I worked at headquarters for 8 several years helping develop strategies and 9 building specialized teams, including one 10 focused on health care. 11 Q. Could you describe the team 12 that you were involved with at Target that 13 focused on health care? 14 A. Sure. 15 It was a team that was designed 16 to do several different things. I had been 17 involved in investigating pharmacy cases for 18 years, all way back to when I was in the 19 stores. This team was designed to, you know, 20 help identify and support investigations of 21 pharmacy cases in the field, develop new ways 22 to identify theft in pharmacies through data 23 and in other ways was designed to help 24 develop tools to monitor dispensing of Target 25 stores, and at the base code level across the</p> | <p>1 to help teach and train Target team members, 2 help build programs and processes focused on 3 diversion. 4 And when an opportunity came up 5 with McKesson, you know, I -- you know, it 6 allowed me and I felt like I could make a 7 bigger difference across multiple chains. If 8 I could replicate some of the things that I 9 was doing at Target in any way and help other 10 chains and be involved, personally I think I 11 could help make a difference. 12 Q. And in that vein, did you have 13 a particular focus as senior director of 14 regulatory affairs at McKesson? 15 A. Yeah, I was hired to focus on 16 the chains and -- oh. 17 Q. Go ahead. 18 A. I was going to say, and as I 19 came on board, my initial focus was to get to 20 know the chains, to conduct some due 21 diligence, understand their programs and help 22 build out and formalize, you know, the focus 23 on the chains over the course of time. 24 Q. You testified yesterday and 25 earlier today about the evolution of</p> |

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| <p style="text-align: right;">Page 494</p> <p>1 McKesson's controlled substance monitoring 2 program. 3 How would you describe that 4 evolution? 5 A. Well, I clearly wasn't here at 6 McKesson prior to 2014, but I understand that 7 some of the core elements related to 8 Section 55 and some of the things associated 9 with suspicious order reporting -- or reports 10 and processes, you know, they advanced and 11 continued to evolve. 12 And with the Lifestyle drug 13 program we're taking feedback and information 14 to add another element to that program to 15 include focusing on some key drugs, building 16 a review process. Continue to advance over 17 time, specifically in 2008, to hard-code the 18 threshold methodology or mechanism in the 19 system. So in 2008, they assigned thresholds 20 across all base codes, all customers, and 21 those served as the mechanism to block 22 suspicious orders. 23 And so over time it's evolved. 24 And as I came on board, we've continued that 25 evolution to try to continue to enhance not</p> | <p style="text-align: right;">Page 496</p> <p>1 programs, you know, talking with them and 2 learning about what type of structure do they 3 have, what type of oversight and compliance 4 and specific teams do they have, what type of 5 policies and procedures do they have related 6 to controlled substances, what type of 7 education and training are they getting as 8 chains, what are they providing to their 9 teams and their stores and their pharmacies, 10 how are they using data to identify areas for 11 follow up and how are they following up on 12 pharmacies. 13 So part of that -- what we do 14 with chains was get to know them at the very 15 beginning when I came on board, but 16 throughout the course of my time with 17 McKesson, we continued to engage at different 18 points in the process. We meet when we 19 on-board chains. I will go meet with them 20 personally at their headquarters locations. 21 When stores -- when new stores 22 are on-boarded, we take that opportunity to 23 do our reviews and at times connect with the 24 teams. 25 When threshold change requests</p> |
| <p style="text-align: right;">Page 495</p> <p>1 just on the ISMC side of the business but 2 specifically on my team and related to chains 3 as well. 4 Q. And you mentioned the 5 thresholds that were implemented. 6 What happened at McKesson when 7 a customer's order exceeded its threshold for 8 a particular base code? 9 A. When those thresholds were 10 established in 2008 and that mechanism was 11 put into place, any order that exceeded the 12 threshold was blocked and not shipped. 13 Q. During what period of time has 14 that been the case? 15 A. Since they were implemented in 16 early 2008. 17 Q. Turning to the role that you've 18 played at McKesson, the interactions you've 19 had with retail national accounts, how have 20 you -- well, could you describe how you and 21 your team interact with customers who are 22 part of your retail national accounts? 23 A. We interact in a variety of 24 ways. When I first came on board, it was a 25 lot of getting to know the chains and their</p> | <p style="text-align: right;">Page 497</p> <p>1 come in, we're working directly with the 2 chain teams on the requests, getting the data 3 from them, talking about the justification, 4 things like that. 5 So we take every opportunity we 6 can to engage and continue to learn about the 7 chains, along with our regular review of data 8 to monitor them. 9 Q. Tell me about the policies and 10 procedures that McKesson expects chains to 11 have in place. 12 A. It's similar to what I shared. 13 We expect there to be oversight. We expect 14 there to be policies and procedures. We 15 expect there to be, you know, use of data, 16 you know. We get -- chains may use data. 17 All of these things may -- they may do in 18 slightly different ways, but the general 19 expectation is to have oversight, to have 20 policies and procedures, to have data to 21 review. And before a threshold change 22 request even comes to us, before we make our 23 own independent decision, to have a process 24 on their side to review them and do research. 25 So those are the types of</p> |

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| <p>1 expectations we have of chains.</p> <p>2 Q. And you mentioned McKesson</p> <p>3 making an independent decision about</p> <p>4 threshold changes related to chains.</p> <p>5 Could you describe that process</p> <p>6 and what's involved?</p> <p>7 A. Yeah. The way that threshold</p> <p>8 requests work as part of our program today is</p> <p>9 that a chain has their own process and</p> <p>10 identifies a need or a request to come to us,</p> <p>11 and they provide us the business</p> <p>12 justification, they provide us dispensing</p> <p>13 data.</p> <p>14 And we have a complete separate</p> <p>15 review, very consistent with what my peers do</p> <p>16 on the independent side. We review the</p> <p>17 business justification. We review the</p> <p>18 purchasing data. We look at analytics</p> <p>19 involved with purchasing data. We look at</p> <p>20 dispensing. We do all of those types of</p> <p>21 things, and we make our own separate</p> <p>22 decision. And that means we don't always</p> <p>23 approve every threshold. We don't always</p> <p>24 approve it for the same amount. We cancel</p> <p>25 some, we deny some, consistent with what</p> | <p>1 know, they're different or they may look</p> <p>2 different. They may be associated with</p> <p>3 long-term care or something like that. But</p> <p>4 we reach out to them.</p> <p>5 At times we've also learned</p> <p>6 that chains have benefitted from that</p> <p>7 information in terms of the shutting off a</p> <p>8 doctor or a prescriber or going in to</p> <p>9 re-review policies with the teams. And so</p> <p>10 they oftentimes, you know, take our word and</p> <p>11 go out and establish action plans on their</p> <p>12 side of the business.</p> <p>13 MS. HENN: Thank you,</p> <p>14 Mr. Hartle. I have no further</p> <p>15 questions.</p> <p>16 Should we go off the record?</p> <p>17 MR. RAFFERTY: Yeah. Yeah,</p> <p>18 I'll swap back around. I've got to</p> <p>19 grab a couple of documents.</p> <p>20 VIDEOGRAPHER: The time is 6:00</p> <p>21 p.m., and we're going off the record.</p> <p>22 (Off the record at 6:00 p.m.)</p> <p>23 VIDEOGRAPHER: The time is</p> <p>24 6:03 p.m., and we're back on the</p> <p>25 record.</p> |
| <p>1 works on the ISMC decide.</p> <p>2 So we view our decision, and</p> <p>3 the chains know we are there to make our own</p> <p>4 regulatory decision.</p> <p>5 Q. And we've talked about the</p> <p>6 review that takes place surrounding threshold</p> <p>7 change requests.</p> <p>8 Are there also occasions when</p> <p>9 McKesson may reach out to a chain about data</p> <p>10 that it sees?</p> <p>11 A. There are.</p> <p>12 One of the other elements or</p> <p>13 components of our general CSMP as a</p> <p>14 regulatory affairs group is to do proactive</p> <p>15 reviews, and at times we will -- we will</p> <p>16 identify locations that we want to learn more</p> <p>17 about. We may see something in the data. It</p> <p>18 may just be the top dispensing location for a</p> <p>19 chain, it may be related to a particular base</p> <p>20 code, it may be related to something. But we</p> <p>21 will reach out proactively to the chain</p> <p>22 teams, and we expect -- our expectation is</p> <p>23 that we learn why that might be different.</p> <p>24 And many times the chains will</p> <p>25 be able to explain to us why -- why, you</p> | <p>1 REDIRECT EXAMINATION</p> <p>2 QUESTIONS BY MR. RAFFERTY:</p> <p>3 Q. Mr. Hartle, you were just asked</p> <p>4 some questions by your counsel. I just want</p> <p>5 to follow up on a couple of them.</p> <p>6 A. Sure.</p> <p>7 Q. First of all, you were asked</p> <p>8 about the evolution of the CSMP.</p> <p>9 Do you recall that?</p> <p>10 A. I do.</p> <p>11 Q. And you talked about how you</p> <p>12 continued to make improvements throughout</p> <p>13 from 2008 forward, correct?</p> <p>14 A. I remember that.</p> <p>15 Q. All right. From 2008, you'll</p> <p>16 agree with me, though, that your company,</p> <p>17 McKesson, made an awful lot of mistakes that</p> <p>18 fed and created the opioid epidemic for many,</p> <p>19 many years, correct?</p> <p>20 If we went through all of those</p> <p>21 today, it resulted in two settlements in 2008</p> <p>22 and one in 2017, based on numerous, numerous</p> <p>23 failures to provide suspicious order reports,</p> <p>24 correct?</p> <p>25 MS. HENN: Objection to form.</p> |

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| <p style="text-align: right;">Page 502</p> <p>1 THE WITNESS: Similar to what's 2 in the most recent settlement, we 3 acknowledged, you know, certain 4 things.</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. Okay. And now that you're 7 making -- I think what I showed you earlier, 8 that now with your evolution of your CSMP, 9 you now went from making zero -- for many 10 years making zero suspicious order reports to 11 making hundreds of thousands now.</p> <p>12 But my question is this:</p> <p>13 Because now you are making hundreds of 14 thousands, we shouldn't -- you don't think 15 that that should absolve McKesson of the 16 deaths that you saw with my partner, Mike 17 Papantonio, that were created because of the 18 oversupply and McKesson shipping suspicious 19 orders throughout the country, right?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: Could you ask 22 that, please, again?</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. Yeah. Yeah.</p> <p>25 You talk about the evolution,</p> | <p style="text-align: right;">Page 504</p> <p>1 obviously.</p> <p>2 QUESTIONS BY MR. RAFFERTY:</p> <p>3 Q. Well, all of those -- I'm 4 sorry, go ahead.</p> <p>5 A. We're trying to do the right 6 thing and are trying to continue to advance 7 the program.</p> <p>8 Q. Well, when you say you're not 9 perfect, I mean, for many years, many, many 10 years, that we went through with the failure 11 to report suspicious orders, it was far from 12 being perfect, wasn't it? Wasn't even close?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: I understand 15 there was some shortcomings, sure.</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. All right. Now one of the 18 things that you also said to counsel was that 19 the enhancements -- or I'm sorry. If any 20 order -- talking about the thresholds. You 21 said very emphatically: If any of order 22 exceeded the threshold, it was blocked and 23 not shipped, right?</p> <p>24 Remember that, when you told 25 your counsel?</p> |
| <p style="text-align: right;">Page 503</p> <p>1 but the fact of the matter is, is while this 2 epidemic was going on, McKesson was 3 continuing to flood the market with 4 suspicious orders, which we've seen time and 5 time again, many examples both that I went 6 through and that my partner went through, 7 showing pills being dumped in.</p> <p>8 You understand that, right?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 THE WITNESS: I understand 11 what's been shared, what we've talked 12 about, yes.</p> <p>13 QUESTIONS BY MR. RAFFERTY:</p> <p>14 Q. Okay. All right. Now, because 15 now you're claiming that there was some 16 evolution and you're trying to tweak your 17 process, that doesn't absolve McKesson of the 18 responsibility for all of those deaths that 19 have been created over the years, correct?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: I'm not saying 22 that. We're not perfect, so we've 23 been in good faith trying to evolve 24 and do the right thing, and we've 25 acknowledged some shortcomings,</p> | <p style="text-align: right;">Page 505</p> <p>1 A. From 2008 when we -- when we 2 enhanced and we added thresholds for every 3 base code.</p> <p>4 Q. That's not exactly true, is it? 5 Because it could and was still shipped as 6 long as a threshold change request was filed, 7 right?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: There could be 10 thresholds that were processed. 11 However, as part of the mechanism 12 that -- if an order was received and 13 if the threshold was X amount, if it 14 exceeded that, those were blocked. 15 That's what I was referring to.</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. Blocked. But they could be 18 unblocked within hours by granting a 19 threshold change request, true?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: It was not an 22 order-by-order -- a threshold -- it is 23 true that a threshold request could be 24 made and processed and then allow a 25 customer to order, depending on the</p> |

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| <p>1 scenarios.</p> <p>2 But the mechanism that</p> <p>3 blocked -- that had the threshold in</p> <p>4 place and the orders was intact.</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. Right. But --</p> <p>7 A. Is what I was saying.</p> <p>8 Q. -- they could be set aside for</p> <p>9 things such as -- for as flimsy a reason as</p> <p>10 we saw earlier as the Thanksgiving holiday.</p> <p>11 Do you recall that?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 THE WITNESS: There was a</p> <p>14 process to change thresholds, yes.</p> <p>15 QUESTIONS BY MR. RAFFERTY:</p> <p>16 Q. Okay. Now, you also talked</p> <p>17 with your counsel about this getting to</p> <p>18 know -- when she said, how do you communicate</p> <p>19 and how do you work with the chains, and you</p> <p>20 talked about getting to know the customer and</p> <p>21 going out and working with the customer, the</p> <p>22 chain, right?</p> <p>23 A. Correct.</p> <p>24 Q. So you stay pretty in touch</p> <p>25 with the chain, and you rely upon the chain</p> | <p>1 health service accounts. So they're not a</p> <p>2 chain that I manage and -- it's a different</p> <p>3 part of the business.</p> <p>4 Q. But they're a customer of --</p> <p>5 A. They're a customer of</p> <p>6 McKesson's.</p> <p>7 Q. Okay. Were you aware in June</p> <p>8 of 2030 -- 2013, Walgreens paid an</p> <p>9 \$80 million fine for violation under the</p> <p>10 Controlled Substance Act?</p> <p>11 Were you aware of that?</p> <p>12 A. Yes.</p> <p>13 MS. HENN: Objection to form.</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. Okay. Were you aware that</p> <p>16 CVS -- now, CVS is one of your customers,</p> <p>17 right, that you monitor?</p> <p>18 A. They are a customer.</p> <p>19 Q. And that you were getting to</p> <p>20 know.</p> <p>21 When you were getting to know</p> <p>22 CVS, did you know that in May of 2015 they</p> <p>23 paid a \$22 million fine for unlawful</p> <p>24 distribution of controlled substances?</p> <p>25 MS. HENN: Objection.</p> |
| <p>1 to provide you information in terms of the</p> <p>2 diversion, correct?</p> <p>3 MS. HENN: Objection to form.</p> <p>4 QUESTIONS BY MR. RAFFERTY:</p> <p>5 Q. In terms of preventing</p> <p>6 diversion?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 THE WITNESS: Could you ask</p> <p>9 that again?</p> <p>10 QUESTIONS BY MR. RAFFERTY:</p> <p>11 Q. Yeah.</p> <p>12 In terms of -- when you say you</p> <p>13 get to know the customer, you go out and you</p> <p>14 continue to -- I think your quote is -- I</p> <p>15 wrote down the quote -- "continue to learn</p> <p>16 about the chains" even when they become</p> <p>17 customers, right?</p> <p>18 A. Correct.</p> <p>19 Q. Now, let's talk about your</p> <p>20 customers, because these customers include</p> <p>21 Walgreens, right?</p> <p>22 A. Walgreens is not part of the</p> <p>23 retail national account chain. They have --</p> <p>24 their relationship with McKesson is that they</p> <p>25 have 340B specific accounts, the -- both</p> | <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. Were you aware of that?</p> <p>3 MS. HENN: Objection to form.</p> <p>4 THE WITNESS: I'm aware of</p> <p>5 those.</p> <p>6 QUESTIONS BY MR. RAFFERTY:</p> <p>7 Q. Okay. Were you aware when you</p> <p>8 were getting to know your customer of Costco?</p> <p>9 Is that one of your customers?</p> <p>10 A. It is.</p> <p>11 Q. Okay. Did you know that in</p> <p>12 2017, Costco paid an \$11.75 million fine?</p> <p>13 Were you aware of that?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 THE WITNESS: I'm aware of</p> <p>16 that.</p> <p>17 QUESTIONS BY MR. RAFFERTY:</p> <p>18 Q. Now, also, you mentioned -- you</p> <p>19 were asked questions about your work at</p> <p>20 Target. So you said you actually did some</p> <p>21 work in the pharmacy, in pharmacy security</p> <p>22 and that type of thing at Target, right?</p> <p>23 A. Yeah, I had a team -- yeah, in</p> <p>24 a variety of different ways over the course</p> <p>25 of time.</p> |

| Page 510 | Page 512 |
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| 1 Q. And were you there in 2012? | 1 6:11 p.m., August 1, 2018. Going off |
| 2 A. I was. | 2 the record completing the videotaped |
| 3 Q. Were you there in 2012 when | 3 deposition. |
| 4 Target paid a \$232,000 fine for overcharging | 4 (Deposition concluded at 6:11 p.m.) |
| 5 cities, municipalities, for prescription drug | 5 ----- |
| 6 coverage? | 6 |
| 7 MS. HENN: Objection to form. | 7 |
| 8 THE WITNESS: I was there | 8 |
| 9 during that time frame. | 9 |
| 10 QUESTIONS BY MR. RAFFERTY: | 10 |
| 11 Q. Do you recall that? | 11 |
| 12 A. I actually don't. | 12 |
| 13 Q. You don't? | 13 |
| 14 A. Not top of mind. | 14 |
| 15 Q. Well, you said that you'd also | 15 |
| 16 worked in doing some diversion, right, when | 16 |
| 17 you were at Target, or worked in the | 17 |
| 18 diversion prevention at Target? | 18 |
| 19 A. Right. Right. | 19 |
| 20 Q. So when you came to -- when you | 20 |
| 21 came to McKesson then, you certainly should | 21 |
| 22 have known the responsibilities and duties of | 22 |
| 23 a distributor of drugs, of narcotics, under | 23 |
| 24 the Controlled Substances Act, right? | 24 |
| 25 MS. HENN: Objection to form. | 25 |
| Page 511 | Page 513 |
| 1 THE WITNESS: I knew what they | 1 CERTIFICATE |
| 2 were. | 2 |
| 3 QUESTIONS BY MR. RAFFERTY: | 3 |
| 4 Q. And you should have known then, | 4 I, CARRIE A. CAMPBELL, Registered |
| 5 when you started at McKesson, the dramatic | 5 Diplomate Reporter, Certified Realtime |
| 6 impact that allowing diversion to occur with | 6 Reporter and Certified Shorthand Reporter, do |
| 7 the narcotics that you were distributing can | 7 hereby certify that prior to the commencement |
| 8 have on the public safety and welfare, | 8 of the examination, Nathan J. Hartle was duly |
| 9 correct? | 9 sworn by me to testify to the truth, the |
| 10 A. I know the role that a | 10 whole truth and nothing but the truth. |
| 11 distributor plays. That's why -- you know, | 11 I DO FURTHER CERTIFY that the |
| 12 the impact that they can have. That's why I | 12 foregoing is a verbatim transcript of the |
| 13 came and joined the team. So I recognize | 13 testimony as taken stenographically by and |
| 14 that. | 14 before me at the time, place and on the date |
| 15 MR. RAFFERTY: Nothing further. | 15 hereinbefore set forth, to the best of my |
| 16 MS. HENN: Thank you. | 16 ability. |
| 17 Before we go off the record the | 17 I DO FURTHER CERTIFY that I am |
| 18 last time, I would just, again, ask | 18 neither a relative nor employee nor attorney |
| 19 the court reporter to please mark the | 19 nor counsel of any of the parties to this |
| 20 transcript highly confidential pending | 20 action, and that I am neither a relative nor |
| 21 review as ordered by the Court, and we | 21 employee of such attorney or counsel, and |
| 22 will also reserve the right to read | 22 that I am not financially interested in the |
| 23 and sign. | 23 action. |
| 24 Thank you very much. | 24 |
| 25 VIDEOGRAPHER: The time is | 25 |
| CARRIE A. CAMPBELL, NCRA Registered Diplomate Reporter Certified Realtime Reporter California Certified Shorthand Reporter #13921 Missouri Certified Court Reporter #859 Illinois Certified Shorthand Reporter #084-004229 Texas Certified Shorthand Reporter #9328 Kansas Certified Court Reporter #1715 Notary Public Dated: August 6, 2018 | |

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|--|----|-------------------------|
| 1 INSTRUCTIONS TO WITNESS | 1 | ----- |
| 2 | | ERRATA |
| 3 Please read your deposition over | 2 | ----- |
| 4 carefully and make any necessary corrections. | 3 | PAGE LINE CHANGE |
| 5 You should state the reason in the | 4 | _____ |
| 6 appropriate space on the errata sheet for any | 5 | _____ |
| 7 corrections that are made. | 6 | _____ |
| 8 After doing so, please sign the | 7 | _____ |
| 9 errata sheet and date it. You are signing | 8 | _____ |
| 10 same subject to the changes you have noted on | 9 | _____ |
| 11 the errata sheet, which will be attached to | 10 | _____ |
| 12 your deposition. | 11 | _____ |
| 13 It is imperative that you return | 12 | _____ |
| 14 the original errata sheet to the deposing | 13 | _____ |
| 15 attorney within thirty (30) days of receipt | 14 | _____ |
| 16 of the deposition transcript by you. If you | 15 | _____ |
| 17 fail to do so, the deposition transcript may | 16 | _____ |
| 18 be deemed to be accurate and may be used in | 17 | _____ |
| 19 court. | 18 | _____ |
| 20 | 19 | _____ |
| 21 | 20 | _____ |
| 22 | 21 | _____ |
| 23 | 22 | _____ |
| 24 | 23 | _____ |
| 25 | 24 | _____ |
| | 25 | _____ |
| Page 515 | | Page 517 |
| 1 ACKNOWLEDGMENT OF DEPONENT | 1 | ----- |
| 2 | | LAWYER'S NOTES |
| 3 | | ----- |
| 4 I, _____, do | 3 | PAGE LINE |
| 5 hereby certify that I have read the foregoing | 4 | _____ |
| 6 pages and that the same is a correct | 5 | _____ |
| 7 transcription of the answers given by me to | 6 | _____ |
| 8 the questions therein propounded, except for | 7 | _____ |
| 9 the corrections or changes in form or | 8 | _____ |
| 10 substance, if any, noted in the attached | 9 | _____ |
| 11 Errata Sheet. | 10 | _____ |
| 12 | 11 | _____ |
| 13 | 12 | _____ |
| 14 | 13 | _____ |
| 15 Nathan J. Hartle DATE | 14 | _____ |
| 16 | 15 | _____ |
| 17 | 16 | _____ |
| 18 Subscribed and sworn to before me this | 17 | _____ |
| 19 day of _____, 20 _____. My commission expires: _____ | 18 | _____ |
| 20 | 19 | _____ |
| 21 | 20 | _____ |
| 22 | 21 | _____ |
| 23 | 22 | _____ |
| 24 | 23 | _____ |
| 25 | 24 | _____ |
| | 25 | _____ |